

I. EXECUTIVE ORDERS

BJ 08-106 DOTD Disaster Relief Guidelines for Vehicles, Trucks and Loads Rescinds and Supersedes Order No. BJ 08-104 ..... 2521
BJ 08-107 Participation in the United States Army's Partnership for Youth Success Program ..... 2522
BJ 08-108 Executive Department—Limited Hiring Freeze ..... 2522
BJ 08-109 Emergency Dredging of and Debris Removal for Bayou Lafourche ..... 2524
BJ 08-110 Bond Allocation—LPFA Air Products and Chemicals-Methane Reformer Project in Garyville..... 2525
BJ 08-111 Bond Allocation—LPFA Air Products and Chemical-Steam Methane Reformer Baton Rouge Project ..... 2526

II. EMERGENCY RULES

Education

Board of Elementary and Secondary Education—Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities—Admissions and Release (LAC 28:XLIII.464) ..... 2527
Student Financial Assistance Commission—Office of Student Financial Assistance (LAC 28:IV.1203)..... 2528
Tuition Trust Authority—Office of Student Financial Assistance (LAC 28:VI.305, 309 and 311). ..... 2528

Health and Hospitals

Board of Veterinary Medicine—Veterinary Practice (LAC 46:LXXXV.700 and 711)..... 2529
Office for Citizens with Developmental Disabilities—Home and Community-Based Services Waivers New Opportunities Waiver—Skilled Nursing Services Rate Increase (LAC 50:XXI.14301)..... 2530
Office of the Secretary, Bureau of Health Services Financing—Early and Periodic Screening, Diagnosis and Treatment—EarlySteps Reimbursement Rate Increase (LAC 50:XV.7107)..... 2531
Hospital Licensing Standards—Emergency Preparedness—Electronic Reporting Requirements (LAC 48:I.9335)..... 2532
Medical Transportation Program—Emergency Aircraft Transportation—Rotor Winged Ambulance Rate Increase (LAC 50:XXVII.351 and 353)..... 2533
Targeted Case Management—Reimbursement Methodology (LAC 50:XV.10701 and 10703)..... 2534

Public Safety and Corrections

State Uniform Construction Code Council—Wind Mitigation Surveyor (LAC 55:VI.703 and 705) ..... 2535

Revenue

Policy Services Division—Individual Income Tax Filing Extensions (LAC 61:III.2501)..... 2536
Tax Commission—Ad Valorem Taxation (LAC 61:V. 101, 303, 703, 705, 901, 907, 1103, 1301,1305, 1307, 1503, 2101, 2501, 2503, 3101, 3501) ..... 2536

Wildlife and Fisheries

Wildlife and Fisheries Commission—2008 Territorial Sea Shrimp Closure..... 2545
Portions of Zone 1 Shrimp Season Extension ..... 2546
Reef Fish—Harvest Regulations..... 2546

III. RULES

Agriculture and Forestry

Agricultural and Environmental Sciences, Horticulture Commission—Definitions; Enforcement; Requirements for Licensees or Permittees; Stop Orders and Notice of Non-Compliance (LAC 7:XXIX.102, 115 and 123) ..... 2547
Livestock Brand Commission—Brands, Grades and Inspections (LAC 7:IX.101 and 103) ..... 2548
Office of Agro Consumer Services—Petroleum Products and Motor Fuels (LAC 7:XXXV.Chapter 3)..... 2548

Education

Board of Elementary and Secondary Education— Bulletin 111—The Louisiana School, District, and State Accountability System—Proficient in English (LAC 28:LXXXIII.4001) ..... 2552
Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:CXI.501, 511, 1801, 2007, 2011, 2015, 2305, 2311, and 3505)..... 2552
Bulletin 741—Louisiana Handbook for School Administrators (LAC 28:CXV.Chapter 23) ..... 2557
Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.903 and 911)..... 2559

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**Environmental Quality**

Office of the Secretary—Legal Affairs Division—Asbestos and Lead Fees (LAC 33:III.223) (AQ282)..... 2560

**Governor**

Board of Certified Public Accountants—Continuing Professional Education (CPE) (LAC 46:XIX.1305 and 1309) ..... 2561

Division of Administration, Office of Group Benefits—PPO and EPO Plans of Benefits—Eligible Expenses (LAC 32:III.301, V:301)..... 2562

Office of Financial Institutions—Residential Mortgage Lending Act—Expired License Reinstatement Procedure (LAC 10:XII.301) ..... 2563

**Health and Hospitals**

Board of Dentistry—Dentistry Requirements, Licenses and Permits (LAC 46:XXXIII.306, 415, 419, 420, 706, 1709 and 1711) ..... 2563

Office of Aging and Adult Services—Home and Community Based Services Waivers—Adult Day Health Care (LAC 50:XXI.Chapters 21-39) ..... 2565

Personal Care Services—Long Term—Louisiana Personal Options Program (LAC 50:XV.Chapter 129) ..... 2577

Office of Public Health—Disease Reporting Requirements, Reportable Diseases and Conditions (LAC 51:II.101 and 105) ..... 2581

Office of the Secretary, Bureau of Health Services Financing—Adult Residential Care Providers Minimum Licensing Standards (LAC 48:I.Chapter 68)..... 2582

Facility Need Review—Adult Residential Care (LAC 48:I.Chapter 125) ..... 2611

Minimum Licensing Standards for Adult Day Health Care (LAC 48:I.Chapter 42)..... 2622

Prosthetics and Orthotics Provider Accreditation (LAC 50:XVII.301, 303 and 501) ..... 2638

**Natural Resources**

Office of Conservation—Application to Drill (LAC 43:XIX.10) ..... 2639

Diverter Systems and Blowout Preventers (BOP) (LAC 43:XIX.111) ..... 2640

**Public Safety and Corrections**

Corrections Services, Prison Enterprises—Responsibilities and Functions (LAC 22:I.1101) ..... 2642

Gaming Control Board—Gaming—(LAC 42:VII.1701, 2108, 2116, 2524, 2701, 2707, 2709, 2711, 2715, 2723, 2730, 2731, 2735, 2901, 2953, 2954, 3301, 3302, 4201, 4204, 4205, 4206, 4209, 4211, 4214, 4220; IX.1907, 2165, 2166, 2167, 2169, 2524, 2701, 2707, 2709, 2711, 2715, 2717, 2721, 2723, 2730, 2731, 2735, 2901, 2907, 2922, 2923, 3301, 3302, 4204, 4205, 4206, 4209, 4211, 4214, 4220, 4301, 4303, 4305, 4313, 4321, 4325; XIII.1701, 2108, 2116, 2524, 2701, 2707, 2709, 2711, 2715, 2717, 2721, 2723, 2730, 2731, 2735, 2901, 2937, 2953, 2954, 3301, 3302, 4003, 4009, 4201, 4204, 4205, 4206, 4209, 4211, 4214, 4301, 4303, 4305, 4313, 4315, 4321, and 4325) ..... 2645

Office of State Police—Transportation and Environmental Safety Section—Explosive Code (LAC 55:I.Chapter 15) ..... 2674

**Social Services**

Office of Family Support—FITAP/KCSP—Recovery of Overpayments (LAC 67:III.1503 and 5383) ..... 2677

FITAP/Food Stamps—Resource Exclusions (LAC 67:III.1229, 1235, 1947 and 1949) ..... 2678

**Wildlife and Fisheries**

Wildlife and Fisheries Commission—Domesticated Aquatic Organisms (LAC 76:VII.905)..... 2679

Oyster Cargo Vessels (LAC 76:VII.523) ..... 2679

Oyster Seed Ground Vessel Permit (LAC 76:VII.525) ..... 2680

Reef Fish—Harvest Regulations (LAC 76:VII.335) ..... 2682

**IV. NOTICES OF INTENT**

**Agriculture and Forestry**

Horticulture Commission—Landscape Horticulture (LAC 7:XXIX.105, 107, 109, 113, 115, and 117) ..... 2683

Retail Florist Examination (LAC 7:XXIX.107, 111) ..... 2685

Office of Agriculture and Environmental Science Pesticides—Examinations, Restriction, Water and Fish Tissue Sampling (LAC 7:XXIII.103, 121, 125, 129, 143, 173, 181, and 205) ..... 2686

Office of Agro-Consumer Services, Agricultural Commodities Commission—Grain and Cotton Indemnity Fund (LAC 7:XXVII.139 and 191) ..... 2689

Office of the Commissioner—Market Bulletin Subscription Fee (LAC 7:I.101) ..... 2693

**Education**

Board of Elementary and Secondary Education—Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.301, 611, 1101, Chapters 15 and 17, 2401, 3905. and 4311)..... 2693

Bulletin 111—The Louisiana School, District, and State Accountability System—Academic Assistance Waivers and LAA1 Results (LAC 28:LXXXIII.1403 and 3905)..... 2696

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28:CXV.1103 and 1118) ..... 2697

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Foreign Language Special Certificate (LAC 28:CXXXI.311)..... 2699

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Highly Qualified Policy for Teachers (LAC 28:CXXXI.1103) ..... 2700

Bulletin 746—Louisiana Standards for State Certification of School Personnel—PRAXIS I Scores (LAC 28:CXXXI.241) ..... 2701

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Turnaround Specialist Endorsement (LAC 28:CXXXI.710) .....	2703
Bulletin 1191—School Transportation Handbook (LAC 28:XXVII.2511) .....	2704
Bulletin 1213—Minimum Standards for School Buses (LAC 28:XXV.1101) .....	2705
Bulletin 1794—State Textbook Adoption Policy and Procedure Manual (LAC 28:XXXIII.301 and 311) .....	2706
<b>Environmental Quality</b>	
Office of the Secretary, Legal Affairs Division—Control Technology Guidelines (LAC 33:III.111.2123, and 2143)(AQ296) .....	2707
Statutory Exemption for Air Permits (LAC 33:III.501)(AQ270) .....	2713
<b>Health and Hospitals</b>	
Board of Medical Examiners—Consultation and Collaboration with Medical Psychologists (LAC 46:XLV.Chapter 72) .....	2714
Physician Licensure and Certification; Short-Term Training Permit (LAC 46:XLV.411) .....	2717
Office for Citizens with Developmental Disabilities—Home and Community-Based Services Waivers New Opportunities Waiver—Skilled Nursing Services Rate Increase (LAC 50:XXI.14301) .....	2719
Office of the Secretary, Bureau of Health Services Financing—Minimum Licensing Standards for Emergency Medical Transportation Services (LAC 48:I.Chapter 60) .....	2720
Office of Public Health—Safe Drinking Water Program (LAC 51:XXI.101, 313, 913, 1139, 1507, 1509, and Chapter 19) .....	2738
<b>Insurance</b>	
Office of the Commissioner—Regulation 93—Named Storm and Hurricane Deductibles (LAC 37:XIII.Chapter 135) .....	2743
<b>Public Safety and Corrections</b>	
Corrections Services—Searches of Visitors (LAC 22:I.303) .....	2746
Office of Management and Finance—Uniform Construction Code Council—Wind Mitigation Surveyor (LAC 55:VI.703 and 705) .....	2748
Office of State Police—Transportation and Environmental Safety Section—Explosive Code (LAC 55:I.1505 and 1543) .....	2749
<b>Revenue</b>	
Policy Services Division—Individual Income Tax Filing Extensions (LAC 61:III.2501) .....	2750
Property Used in Interstate Commerce (LAC 61:I.4420) .....	2751
Tax Commission—Ad Valorem Taxation (LAC 61:V.101, 303, 703, 705, 901, 907, 1103, 1301, 1305, 1307, 1503, 2101, 2501, 2503, 3101, and 3501) .....	2754
<b>Wildlife and Fisheries</b>	
Wildlife and Fisheries Commission—Alligator Regulations (LAC 76:V.701) .....	2755
Control of Nuisance Wild Quadrupeds (LAC 76:V.125) .....	2767
White Lake WCA Conservation Management Plan (LAC 76:III.335) .....	2768
<b>V. POTPOURRI</b>	
<b>Agriculture and Forestry</b>	
Forestry Commission—Timber Stumpage Values .....	2774
<b>Governor</b>	
Division of Administration—Office of Information Technology (OIT) .....	2774
Office of Financial Institutions—Judicial Interest Rate Determination for 2009 .....	2774
Oil Spill Coordinator's Office—Duck Lake Oil and Gas Field Crude Oil Discharge Draft Settlement Agreement .....	2774
East Lake Palourde Crude Oil Discharges Reported on June 11, 2002 Draft Settlement Agreement .....	2775
<b>Health and Hospitals</b>	
Board of Veterinary Medicine—Spring/Summer Examination Dates .....	2776
<b>Natural Resources</b>	
Office of Conversation—Orphaned Oilfield Sites .....	2777
Office of the Secretary—Fishermen's Gear Compensation Fund .....	2777
<b>Revenue</b>	
Tax Commission—Timber Stumpage Values .....	2774
<b>VI. INDEX</b> .....	2778

# Executive Orders

## EXECUTIVE ORDER BJ 08-106

DOTD Disaster Relief Guidelines for Vehicles, Trucks and Loads Rescinds and Supersedes Order No. BJ 08-104

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., confers upon the governor of the state of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or man-made causes, to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the state of Louisiana;

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared August 27, 2008, through Proclamation No. 51 BJ 2008 for Hurricane Gustav, and is still in effect via subsequent renewals of that proclamation;

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared September 7, 2008, through Proclamation No. 52 BJ 2008 for Hurricane Ike, and is still in effect via subsequent renewals of that proclamation;

WHEREAS, Executive Order Nos. BJ 2008-78 and BJ 2008-104 were made applicable to and extended through the declaration period of Hurricane Ike via Executive Order No. BJ 2008-97; and

WHEREAS, the safety and welfare of the inhabitants of the affected areas of Louisiana and surrounding states require that the movements of operators of commercial motor carriers traveling on the public highways of the state of Louisiana for the purpose of emergency preparedness and disaster relief efforts be expedited;

NOW THEREFORE, I, BOBBY JINDAL, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The following sizes and weights for vehicles on roadways maintained by the state of Louisiana shall not exceed the following limitations:

A. For vehicles transporting green goods debris (trees and limbs, etc.), white goods debris (appliances, etc.), and construction goods debris (fence materials, roof repair debris, etc.), the maximum gross vehicle weight for vehicles equipped with five (5) or more weight-bearing axles with outer bridge spans of not less than forty (40) feet, but less than fifty-one (51) feet, shall not exceed ninety thousand (90,000) pounds. No single axle carrying such loads shall exceed twenty thousand (20,000) pounds. No group of two (2) axles carrying such loads shall exceed forty thousand (40,000) pounds. No group of three (3) axles carrying such loads shall exceed forty-eight thousand (48,000) pounds, except with a permit issued by the Louisiana Department of Transportation and Development (hereinafter "Department");

B. For vehicles transporting green goods debris (trees and limbs, etc.), white goods debris (appliances, etc.) and construction goods debris (fence materials, roof repair debris, etc.), the maximum gross vehicle weight for vehicles equipped with five (5) or more weight-bearing axles with outer bridge spans of not less than fifty-one (51) feet shall not exceed ninety-five thousand (95,000) pounds. No single axle carrying such loads shall exceed twenty thousand (20,000) pounds. No group of two (2) axles carrying such loads shall exceed forty thousand (40,000) pounds. No group of three (3) axles carrying such loads shall exceed forty-eight thousand (48,000) pounds, except with a permit issued by the Department;

C. For vehicles transporting green goods debris (trees and limbs, etc.), white goods debris (appliances etc.), and construction goods debris (fence materials, roof repair debris, etc.), the maximum gross vehicle weight for vehicles equipped with four (4) weight-bearing axles with outer bridge spans of not less than forty-three (43) feet shall not exceed eighty thousand (80,000) pounds. No single axle carrying such loads shall exceed twenty thousand (20,000) pounds. No group of two (2) axles carrying such loads shall exceed forty thousand (40,000) pounds. No group of three (3) axles carrying such loads shall exceed forty-eight thousand (48,000) pounds, except with a permit issued by the Department;

D. For vehicles transporting green goods debris (trees and limbs, etc.), white goods debris (appliances etc.), and construction goods debris (fence materials, roof repair debris, etc.), the maximum dimensions shall not exceed fourteen (14) feet wide, fourteen (14) feet high, and ninety-five (95) feet long on Interstate highways and fourteen (14) feet wide, thirteen feet and 6 inches (13', 6") high, and ninety-five (95) feet long on non-Interstate highways. All such vehicles must travel during daylight hours only, beginning at sunrise and ending at sunset. All such vehicles must travel with the required signs and flags properly placed and indicating that they bear oversized loads. All such vehicles which measure over twelve (12) feet wide must travel with a certified escort;

E. Carriers, owners and/or drivers of any vehicle being operated under this Order are responsible for verifying in advance that the actual dimensions and weights of the vehicles and loads are acceptable for all routes being traveled. This includes, but is not limited to, areas deemed by Federal, state or local officials as inaccessible due to damages caused by Hurricanes Gustav and/or Ike, overhead structures and/or construction areas; and

F. Any manufactured home owned by FEMA or any vehicle which is considered a hurricane disaster relief load and which measures more than eight feet six inches (8' 6") wide and fourteen (14) feet wide or less must travel during daylight hours only, beginning at sunrise and ending at sunset. All such vehicles must travel with the required signs and flags indicating that they bear oversize loads. All such vehicles which measure over twelve (12) feet wide must travel with a certified escort.

SECTION 2. The commercial vehicle regulatory requirements regarding the purchase of trip permits for registration and fuel for commercial motor carriers engaged in disaster relief efforts in the state of Louisiana shall be waived. This permit waiver also applies to such vehicles/loads with the types of loads and the weights and dimensions not exceeding those described in Section 1(A) through (D) above. However, such permits must be obtained from the Department for vehicles exceeding those weights.

SECTION 3. Nothing in this Order shall be construed to allow any vehicle to exceed weight limits posted for bridges and similar structures, or relieve any vehicle or carrier, owner or driver of any vehicle from compliance with any restrictions other than those specified, or from any statute, rule, order or other legal requirement not specifically waived herein.

SECTION 4. Nothing in this Order shall be construed or interpreted as being applicable to travel on nonstate maintained highways, or as being applicable to construction and building projects that are not in support of Hurricanes Gustav and/or Ike recovery and repair efforts.

SECTION 5. This Order rescinds and supersedes Executive Order No. BJ 2008-104.

SECTION 6. This Order is effective upon signature and shall terminate on December 31, 2008, unless amended, modified, terminated or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 6th day of November, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0812#023

#### EXECUTIVE ORDER BJ 08-107

##### Participation in the United States Army's Partnership for Youth Success Program

WHEREAS, it is a priority for the state to foster a political, social, and economic environment that will allow Louisiana's greatest assets—our young people—to build successful lives and careers within the state;

WHEREAS, there are over 3,500 Louisiana men and women currently deployed in the service of our country;

WHEREAS, there are over 8,000 Louisiana men and women serving in the United States Army and Army Reserve;

WHEREAS, Army recruitment in Louisiana, in contrast to many other states, has seen double-digit increases in recent years;

WHEREAS, the United States Army Recruiting Command has developed a partnership with the business community to facilitate the transition of soldiers to civilian life by matching their skills with available jobs;

WHEREAS, the state of Louisiana's participation in the United States Army's Partnership for Youth Success

(PaYS) Program will benefit the people and the state of Louisiana, by having the option of interviewing and employing United States Army trained men and women whose intelligence, experience and skills will be a great asset to Louisiana state agencies and government; and

WHEREAS, the PaYS Program will greatly assist the United States Army in recruiting high quality men and women;

NOW THEREFORE I, BOBBY JINDAL, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Each state agency shall enter into a Memorandum of Agreement with the United States Army for the purpose of establishing participation in the PaYS Program.

SECTION 2: The Memorandum of Agreement between a state agency and the United States Army will control the creation, scope, obligations and termination of the agreement for that state agency.

SECTION 3: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 10th day of November, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0812#024

#### EXECUTIVE ORDER BJ 08-108

##### Executive Department—Limited Hiring Freeze

WHEREAS pursuant to R.S. 42:375, the governor may issue executive orders which prohibit or regulate the filling of any new or existing vacancies in positions of employment in the executive branch of state government (hereafter "hiring freeze");

WHEREAS, R.S. 39:84 provides authority to the governor to regulate and control personnel transactions;

WHEREAS, the state cost share for FEMA-3289-EM, FEMA 1786-DR, FEMA-3295-EM and FEMA 1792-DR, relative to Hurricanes Gustav and Ike, is estimated to be one hundred million dollars (assuming a 10% cost share) or \$220 million dollars (assuming a 25% cost share);

WHEREAS, to limit or control the growth in government positions, to prepare for the financial impact of Hurricanes Gustav and Ike, and to prepare for the declining economic conditions in the ensuing years, prudent fiscal management practices dictate that the best interests of the citizens of the state of Louisiana will be served by the implementation of a hiring freeze in the executive branch of state government, exempting positions specifically related to direct patient care and positions that are critical to the safety

of the public, to achieve at least a state general fund dollar savings of \$25 million;

WHEREAS, higher education plays a vital role for the citizens of our state. In addition, higher education in Louisiana has a unique management structure. Recognizing this, the Board of Regents, the Board of Supervisors of Louisiana State University Agricultural and Mechanical College, the Board of Supervisors of Southern University Agricultural and Mechanical College, the Board of Supervisors for the University of Louisiana System, and the Board of Supervisors of Louisiana Community and Technical Colleges should be authorized to provide for a hiring freeze, and for exemptions from such freeze, for positions which each Board has management authority over;

WHEREAS, the official forecast for Fiscal Year 2008-2009 state general fund revenue incorporates energy prices that are higher than current market conditions and does not consider the extent or duration of the slowdown in the national economy that is now unfolding;

WHEREAS, the Fiscal Year 2009-2010 official forecast plus legislative action from the 2008 Regular Session projects a decline of \$757 million in state general fund; and

WHEREAS, even with conservative predictions, current collections through October 2008 show each of these categories declining from the same time last year: personal income down 3.78% and corporate collections down 8%. Energy prices that were elevated in the early months of the fiscal year are rapidly weakening. All of these factors combined indicate that revenue will further decline in Fiscal Year 2009-2010, especially if economic conditions continue to worsen.

NOW THEREFORE, I, BOBBY JINDAL, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

**SECTION 1:**

A. The following departments, agencies, and/or budget units of the executive branch of the state of Louisiana (hereafter "Unit and/or "Units"), as described in and/or funded by appropriations through Act 19 of the 2008 Regular Session of the Louisiana Legislature (hereafter "Act 19"), shall be subject to the hiring freeze as provided in this Executive Order:

<b>Executive Branch</b>	
Schedule 01	Executive
Schedule 03	Veterans Affairs
Schedule 05	Economic Development
Schedule 07	Transportation and Development
Schedule 08	Corrections Services
Schedule 08	Public Safety Services
Schedule 08	Youth Services
Schedule 09	Health and Hospitals
Schedule 10	Social Services
Schedule 11	Natural Resources
Schedule 12	Revenue
Schedule 13	Environmental Quality
Schedule 14	Louisiana Workforce Commission

<b>Executive Branch</b>	
Schedule 16	Wildlife and Fisheries
Schedule 17	Civil Service
17-560	State Civil Service
17-561	Municipal Fire and Police Civil Service
17-562	Ethics Administration
17-563	State Police Commission
17-564	Division of Administrative Law
Schedule 19	Higher Education
Schedule 19	Department of Education
Schedule 19	Special Schools and Commissions
19B-651	Louisiana School for the Visually Impaired
19B-653	Louisiana School for the Deaf
19B-655	Louisiana Special Education Center
19B-657	Louisiana School for Math, Science and the Arts
19B-661	Office of Student Financial Assistance
19B-662	Louisiana Educational TV Authority
19B-666	Board of Elementary & Secondary Education
19B-673	New Orleans Center for the Creative Arts

B. The commissioner of administration is hereby authorized to and shall establish the number of positions and full-time equivalent positions, hereafter referred to as "positions", to be frozen for each such department, agency, and/or budget unit specified in Paragraph A of this Section together with the expenditure of funds appropriated for such positions.

C. After the effective date of this Order, employee transfers, promotions, re-allocations, and the creation of any new positions of employment within the executive branch of state government shall not, in any manner, decrease, or in the case of full-time equivalent increase, the number of such frozen positions within the department, budget unit, agency, office, within the executive branch of state government below the number frozen determined as provided in this Section unless otherwise adjusted by the commissioner of administration.

D. The Board of Regents, the Board of Supervisors of Louisiana State University Agricultural and Mechanical College, the Board of Supervisors of Southern University Agricultural and Mechanical College, the Board of Supervisors for the Louisiana of Louisiana System, and the Board of Supervisors of the Louisiana Community and Technical Colleges are encouraged to implement a hiring freeze, and for exemptions thereto, for positions which each respective Board has management authority over.

SECTION 2: No later than December 1, 2008, in order to implement the freeze provided in Section 1, the head of each Unit listed in Section 1 of this Order shall submit to the commissioner of administration (hereafter "commissioner") a mid-year budget adjustment plan, on the BA-7 form and questionnaire, which reflects the Unit's proposed allocation of the position freeze ordered in Section 1 of this Order (hereafter "mid-year budget adjustment plan"), and a rationale or explanation of the mid-year budget adjustment plan.

A. The allocation of the position freeze shall be implemented by the Unit only upon the commissioner's prior written approval of the Unit's mid-year budget adjustment plan.

B. Once approved, a mid-year budget adjustment plan may not be changed without the commissioner's prior written approval.

SECTION 3:

A. The commissioner of administration is authorized to grant any department, budget unit, agency, office, in the executive branch of state government an exemption, on a case-by-case basis from all or a part of the prohibition set forth in Section 1 of this Order, as the commissioner deems necessary and appropriate. Such an exemption shall be express and in writing.

B. Requests for an exemption from all or a part of the prohibition set forth in Section of this Order, on a case-by-case basis shall be submitted by the secretary or head of a department, or by the head of a budget unit, agency, office which is not within a department. Each request for an exemption shall be in writing and shall contain a description of the exemption sought and full justification for the request.

C. The commissioner of administration may develop guidelines pertaining to requests for exemption from all or part of the prohibition set forth in Section 1 of this Order.

D. If necessary, the commissioner of administration may develop definitions for the terms and/or the descriptions used in this Order.

SECTION 4: All departments, budget units, agencies, offices, entities, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 5: The governor, in accordance with R.S. 42:375(D) may order the commissioner of administration to withhold allotments in the appropriate category of expenditures from which the salary or compensation of any employee employed in violation of this executive order is paid in an amount equal to such compensation.

SECTION 6: This Order is effective upon signature and shall remain in effect through June 30, 2009, or until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of November, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0812#025

**EXECUTIVE ORDER BJ 08-109**

Emergency Dredging of and Debris  
Removal for Bayou Lafourche

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., confers upon the governor of the state of Louisiana emergency powers to deal with, respond to, or recover from emergencies and disasters, including those caused by fire, flood, earthquakes, or other natural or man-made causes;

WHEREAS, Proclamation No. 51 BJ 2008, issued on August 27, 2008, and subsequently extended by Proclamations No. 58 BJ 2008 and No. 66 BJ 2008, declared a state of emergency for the state of Louisiana due to Hurricane Gustav's potential to cause severe storms, high winds, storm surges and torrential rain that could cause flooding and damage to private property and public property, and threaten the safety and security of the citizens of Louisiana;

WHEREAS, subsequently, Hurricane Gustav struck the state of Louisiana on September 1, 2008, causing widespread damage which continues to threaten the safety, health, and welfare of the citizens of the state of Louisiana, along with private property and public property;

WHEREAS, Bayou Lafourche serves as the primary water source for several drinking water systems that serve over 300,000 people in Terrebonne, Lafourche, Assumption, and Ascension Parishes;

WHEREAS, Hurricane Gustav inundated portions of Bayou Lafourche with a large volume of debris, fallen trees, and other vegetation which substantially blocked the flow of water to these drinking water systems, and the decomposition of which resulted in the contamination of the water and impairment of the water's availability, treatability, color, odor and taste to the drinking water systems dependant thereupon;

WHEREAS, on September 7 and 8, 2008, the Coastal Protection and Restoration Authority (CPRA) received requests (Task Nos. 11557 and 14325) through the State Emergency Operations Center to provide assistance in removing obstructions and sedimentation in Bayou Lafourche that is preventing the existing pumping station from operating throughout its full design range to deliver fresh water from the Mississippi River to Bayou Lafourche, and prevented the Bayou Lafourche Freshwater District (BLFWD) from improving water quality, flow, and volume in Bayou Lafourche;

WHEREAS, it is necessary to remove the debris from Bayou Lafourche and to provide maintenance dredging, channel clearing and capacity improvements, and slope stability measures to portions of the Bayou, particularly that portion of the Bayou from the head of Bayou Lafourche at the discharge of the Walter S. Lemann Pump Station to River Mile 6.2 at the Louisiana Highway 998 Bridge, as soon as reasonably possible in an effort to alleviate, repair or eliminate the threat to the safety, health, and welfare of the citizens of the state of Louisiana posed by the past, present, and potential contamination of drinking water systems utilizing the Bayou as a source of drinking water in Terrebonne, Lafourche, Assumption, and Ascension Parishes;

WHEREAS, the BLFWD has an existing permit from the United States Army Corps of Engineers (USACE), Permit No. MVN-2001-1270-CX (Bayou Lafourche) 1128 and Permit Extension No. WH-20-010-1270-0, which is valid through April 30, 2011, and which provides for maintenance dredging and channel clearing and capacity improvements along a 29-mile segment of Bayou Lafourche from Donaldsonville to Thibodaux for the purpose of maintaining an adequate freshwater reservoir for public consumption. The BLFWD, however, has neither sufficient

funding nor the technical expertise to exercise the permit in an expeditious manner;

WHEREAS, in order to expedite a solution for improving the quality, flow, and volume of water in Bayou Lafourche, the CPRA has agreed to assist BLFWD with the funding, and technical, inspection, and engineering support necessary to survey and stake portions of Bayou Lafourche, to clear and grub the Bayou, to remove debris and vegetation, provide slope stability measures, and dredge and improve the channel capacity within certain portions of Bayou Lafourche; and

WHEREAS, pursuant to R.S. 29:724(D)(4), and subject to applicable requirements for compensation, the governor may utilize any private property if he finds this necessary to cope with a disaster or emergency;

NOW THEREFORE, I, BOBBY JINDAL, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The BLFWD, the CPRA, the National Guard (LNG), and any other appropriate local, state, or federal governmental entity and their contractors shall be authorized to access, enter, and utilize public and private lands adjoining and adjacent to Bayou Lafourche as may be necessary to survey and stake Bayou Lafourche, to clear and grub the Bayou, to remove vegetation and debris from the Bayou, to conduct maintenance dredging, channel clearing and capacity improvements, and provide slope stability measures therein, all in accordance with the Bayou Lafourche Freshwater District Permit with the United States Army Corps of Engineers (USACE), Permit No. MVN-2001-1270-CX (Bayou Lafourche) 1128 and Permit Extension No. WH-20-010-1270-0, which is valid through April 30, 2011, and to demolish and remove any buildings, docks, bulkheads, or other structures as may be necessary to accomplish these surveying and staking, clearing and grubbing, debris removal, maintenance dredging, channel clearing and capacity improvements, and slope stability measures to be undertaken within Bayou Lafourche, as provided in but not limited to the authority of R.S. 38:225 and R.S. 41:1701, et seq. and any other similar rule, regulation or law, all with the intent and purpose of providing fresh water in Bayou Lafourche and facilitating the flow thereof as soon as practicable.

SECTION 2: Any entry upon or work performed by government employees or their contractors upon private property shall be in accordance with Louisiana Attorney General Opinion Nos. 05-0360, 05-0360A, and 05-0373, and any compensation for property taken shall be in accordance with the requirements of the Fifth Amendment of the Constitution of the United States of America.

SECTION 3: Any governmental entity seeking reimbursement from the Federal Emergency Management Administration (FEMA) for work performed as authorized by this Order shall comply with appropriate federal statutes and regulations.

SECTION 4: Any work performed pursuant to this Order shall be accompanied by documentation of the actual costs thereof borne by the governmental entity and shall be maintained for possible future reimbursement by FEMA.

SECTION 5: All departments, commissions, boards, offices, entities, agencies, and officers of the state of

Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the BLFWD and the CPRA in implementing the provisions of this Order, including the execution of necessary cooperative endeavor agreements.

SECTION 6: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 21st day of November, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0812#026

**EXECUTIVE ORDER BJ 08-110**

**Bond Allocation—LPFA Air Products and  
Chemicals-Methane Reformer Project in Garyville**

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. BJ 2008-47 was issued to establish:

- (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2008 (hereafter "the 2008 Ceiling");
- (2) the procedure for obtaining an allocation of bonds under the 2008 Ceiling; and
- (3) a system of central record keeping for such allocations; and

WHEREAS, the LPFA has requested an allocation from the 2008 Ceiling to provide a solid waste disposal, recycling, resource recovery or industrial and sewage and wastewater Tx facility in St. John Parish in the state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE, I, BOBBY JINDAL, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2008 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$40,000,000	LPFA	Air Products and Chemicals-Methane Reformer Project in Garyville

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana's Private

Activity Bond Ceiling” submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2008, provided that such bonds are delivered to the initial purchasers thereof on or before December 23, 2008.

SECTION 4: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 25th day of November, 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0812#027

**EXECUTIVE ORDER BJ 08-111**

**Bond Allocation—LPFA Air Products and  
Chemical-Steam Methane Reformer Baton Rouge Project**

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. BJ 2008-47 was issued to establish:

- (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2008 (hereafter “the 2008 Ceiling”);
- (2) the procedure for obtaining an allocation of bonds under the 2008 Ceiling; and
- (3) a system of central record keeping for such allocations; and

WHEREAS, the LPFA has requested an allocation from the 2008 Ceiling to provide a solid waste disposal, recycling, resource recovery or industrial and sewage and

wastewater Tx facility in East Baton Rouge Parish in the state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE, I, BOBBY JINDAL, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2008 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$40,000,000	LPFA	Air Products and Chemicals-Steam Methane Reformer Baton Rouge Project

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana's Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2008, provided that such bonds are delivered to the initial purchasers thereof on or before December 23, 2008.

SECTION 4 This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 25th day of November 2008.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
0812#028

# Emergency Rules

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act—Admissions and Release (LAC 28:XLIII.464)

Editors Note: This Emergency Rule, originally printed on page 2329 of the November 20, 2008, issue of the *Louisiana Register*, is being reprinted to correct a typographical error.

The Board of Elementary and Secondary Education has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17:6 to adopt LAC 28:XLIII, *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act* (R.S. 17:1941 et seq.), Subpart A. Regulations for Students with Disabilities, §464. Admission and Release. This Declaration of Emergency, effective October 22, 2008, will remain in effect for a period of 120 days.

Pursuant to R.S. 17:43, the state of Louisiana, through the State Board of Elementary and Secondary Education (BESE), operates three schools for students with disabilities (Board Special Schools). These three schools provide both a school program during the school day and a residential program. All students at these three facilities are students with disabilities, pursuant to the *Education of Children with Exceptionalities Act*, R.S. 17:1941 et seq., R.S. 17:1944(C)(1) grants the Louisiana Department of Education, with the approval of BESE, the authority to issue regulations with respect to the implementation R.S. 17:1941 et seq.

Current regulations do not provide an adequate structure for addressing the denial of admission or continued enrollment to students at these facilities when the facilities' setting is inappropriate for those students. Although current regulations do allow a Board Special School to release a student when the student's IEP (Individualized Education Plan) team determines that the facility is not appropriate for the student, this determination is often limited to the school setting. Some students, however, may function in the school setting but the residential component is not appropriate for the student. These students may have multiple disabilities, including visual impairment and/or deafness, in addition to other limiting conditions such as emotional disturbance, developmental disabilities, and medically fragile conditions. Some individual students become aggressive and violent. Some students with multiple disabilities pose a risk to themselves and others, especially when combined with a residential setting, lending support to the determination that the Board Special School setting is inappropriate for the student. These emergency regulations provide the structure necessary to address the appropriate placement for these students. Failure to implement these rules and regulations creates an imminent peril to the health, safety, and welfare of the students and staff at these facilities by requiring students to remain in an inappropriate program.

These emergency regulations also provide for students' home local educational agency (LEA) to provide continued educational services for students released from a Board Special School. This statement of jurisdiction is not contained in the current regulations. Without this clarification, students with disabilities could be denied a free appropriate public education (FAPE) after their release from a Board Special School, in violation of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C., §1400 et seq.

The authorization for emergency action in this matter is contained in R.S. 49:953(B), which provides for the issuance of emergency regulations, and R.S. 17:6(A)(10) and 17:1944(C)(1), which grant the Louisiana Department of Education, with the approval of BESE, the authority to issue regulations with respect to this matter.

### Title 28

### EDUCATION

#### Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act

##### Subpart A. Regulations for Students with Disabilities

##### Chapter 4. Special School District (SSD) and BESE Special Schools (BSS)

##### Subchapter B. BESE Special Schools

##### §464. Admission and Release

A. - B.2.b.iii. ...

c. when the student's IEP Team determines that the BSS is not appropriate for the student or when the BSS determines that the BSS residential setting is inappropriate for the student;

d. - e. ...

3. A BSS may deny admission or continued enrollment to a student and release a student from a BSS if the BSS determines that the BSS program is inappropriate for the student's individual needs.

4. Any student released from BSS enrollment and still eligible for a free appropriate public education (FAPE) is immediately in the jurisdiction of the student's home LEA, which bears full responsibility for providing the student with a FAPE. The BSS shall notify the appropriate LEA when a student who is still eligible for a free appropriate public education is released from BSS.

5. Students not admitted or denied continued admission under Paragraph 4 may apply for admission to the school in the future.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2067 (October 2008), amended LR 35:

Linda M. Johnson  
President

0812#092

## DECLARATION OF EMERGENCY

### Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs (LAC 28:IV:1203)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)).

This rulemaking will provide alternate residency requirements the Louisiana GO Grant for students displaced by Hurricanes Katrina and Rita who graduate from out-of-state high schools in 2006-2007, 2007-2008 and 2008-2009.

The Emergency Rule is necessary to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LASFAC has determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students. This Declaration of Emergency is effective November 25, 2008, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG09100E)

#### Title 28

#### EDUCATION

#### Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

#### Chapter 12. Louisiana GO Grant §1203. Definitions

A. The following definitions shall be applicable to the Louisiana GO Grant Program. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

\* \* \*

#### *Louisiana Resident*—

a. - e.iv. ...

f.i. a displaced student who has been certified by the principal or headmaster to have graduated during the 2006-2007, 2007-2008 and 2008-2009 school years from an out-of-state high school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 is a *Louisiana Resident* for the purposes of this Chapter if:

(a). such dependent or independent student actually resided in Louisiana during the entire 2004-2005 school year and was enrolled for such time in an eligible Louisiana school; or

(b). such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in Subclause f.ii.(a). below for at least the 12 months prior to August 26, 2005, or in a parish listed in Subclause f.ii.(b). below for at least the 12 months prior to September 20, 2005;

ii. for the purposes of this Subsection, *displaced student* means:

(a). a student who on August 26, 2005, was actually residing in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, or Washington Parish, and:

(i). was enrolled in an eligible Louisiana school; or

(ii). was enrolled in a home study program approved by the State Board of Elementary and Secondary Education; or

(b). a student who on September 20, 2005, was actually residing in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, St. Mary, Terrebonne, or Vermilion Parish, and:

(i). was enrolled in an eligible Louisiana school; or

(ii). was enrolled in a home study program approved by the State Board of Elementary and Secondary Education.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2616 (December 2007), amended LR 34:238 (February 2008), LR 35:

George Badge Eldredge  
General Counsel

0812#008

## DECLARATION OF EMERGENCY

### Tuition Trust Authority Office of Student Financial Assistance

START Savings Program (LAC 28:VI.305, 309, and 311)

The Louisiana Tuition Trust Authority (LATTA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091 et seq.).

These rule changes will clarify that the trade date is one business day after the business day of receipt of an order to change investment options, and for refunds and disbursements from investment options with variable earnings.

The Emergency Rule is necessary to allow the Louisiana Office of Student Financial Assistance and educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LATTA has determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective on November 25, 2008, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (ST09101E)

**Title 28  
EDUCATION**

**Part VI. Student Financial Assistance—Higher  
Education Savings**

**Chapter 3. Education Savings Account**

**§305. Deposits to Education Savings Accounts**

A. - D.5. ...

6. Requests for the transfer of funds from the variable earnings option in which they are currently deposited to a different option shall be assigned a trade date of one business day after the business day of receipt of the transfer request.

E. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:788 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 35:

**§309. Disbursement of Account Funds for Payment of  
Qualified Higher Education Expenses of a  
Beneficiary**

A. - A.6. ...

7. Disbursements from investment options with variable earnings shall be assigned a trade date of one business day after the business day of receipt of the transfer request.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:716 (June 1997), amended LR 24:1272 (July 1998), LR 24:2238 (December 1998), LR 26:2265 (October 2000), LR 27:1881 (November 2001), LR 30:789 (April 2004), LR 30:1169 (June 2004), LR 32:1433 (August 2006), LR 33:444 (March 2007), LR 35:

**§311. Termination and Refund of an Education  
Savings Account**

A. - C.4. ...

5. Refunds from investment options with variable earnings shall be assigned a trade date of one business day after the business day of receipt.

D. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002), LR 30:790 (April 2004), LR 31:639 (March 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:444 (March 2007), LR 35:

George Badge Eldredge  
General Counsel

0812#007

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

Veterinary Practice  
(LAC 46:LXXXXV.700 and 711)

The Louisiana Board of Veterinary Medicine readopts the following Emergency Rules effective December 4, 2008, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, and the Veterinary Practice Act, R.S. 37:1518A(9), and shall be in effect for the maximum period allowed under law or until adoption of the Rules, whichever occurs first. The Emergency Rules were initially adopted by the Board on October 2, 2008, which was published in the October 20, 2008 issue of the *Louisiana Register*. It is necessary to readopt the Emergency Rules which is being done so within the 120 day period required by law. There is no lapse in the application of the Emergency Rules which will remain in effect for the next 120 days from December 4, 2008 or until adoption of the final rule, whichever comes first. The board is also proceeding with the promulgation of regular rules on this matter which is anticipated to become final rules February 20, 2009, which is within the effective period of the Emergency Rule hereby adopted.

The board has developed and adopted these emergency rules clarifying and implementing the regulatory requirements of a veterinary mobile practice vehicle including aftercare and emergency care, previously limited to veterinary care of large animals only, in keeping with its function as defined by the state legislature in the Veterinary Practice Act. The immediate clarification and implementation of the requirements of a veterinary mobile practice vehicle to also apply to small animal veterinary care during a house call are in the best interest for the protection of the public health and safety. The emergency rules do not limit or adversely impact the practices of licensed veterinarians in hospitals, clinics or mobile clinics, wellness or preventative care clinics, or from conducting programs at a location for the administration of rabies vaccination solely for the specific purpose of rabies prevention. The proposed rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXXV. Veterinarians**

**Chapter 7. Veterinary Practice**

**§700. Definitions**

\* \* \*

*Mobile Practice Vehicle*—a vehicle used by a veterinarian in a house call or farm call to provide veterinary care where the patient is not taken into the vehicle. The vehicle may be an extension of a hospital or clinic, and/or may have the capabilities of providing aftercare and/or emergency care services.

\* \* \*

*Wellness or Preventative Care Clinic*—a service in which a veterinarian licensed by the board administers vaccine, performs examinations, and/or diagnostic procedures to promote good health, excluding treatment for a diagnosed disease, illness or medical condition, at a location other than a veterinary hospital, clinic, mobile clinic, or mobile practice vehicle. A program for the administration of rabies vaccination conducted at a location solely for the specific purpose of rabies prevention shall not be considered a wellness or preventative care clinic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1328 (October 1993), amended LR 20:660 (June 1994), LR 20:1381 (December 1994), LR24:940 and 941 (May 1998), LR 24:1932 (October 1998), LR 24:2257 (December 1998), LR 27:51 (January 2001), LR 27:543 (April 2001), LR 31:3162 (December 2005), LR 33:2424 (November 2007), LR 35:

### **§711. Definitions and Classification of Practice Facilities**

A. - E.12. ...

F. A mobile practice vehicle shall comply with the following requirements.

1. A mobile practice vehicle shall provide veterinary care where the patient is not taken into the vehicle.

2. A mobile practice vehicle may be an extension of an existing hospital and/or clinic defined in §700. The hospital or clinic associated with the mobile practice vehicle shall operate in compliance with §711.A and B.

3. The veterinarian operating or providing veterinary care in a mobile practice vehicle which does not have the capabilities of providing aftercare and/or emergency care services, and/or which is not an extension of an existing hospital or clinic, shall have a prior written agreement with a local veterinary hospital or clinic, within a 30 mile or 30 minutes travel time, to provide aftercare and/or emergency care services. The written agreement to provide aftercare and/or emergency care services in this rule shall not be required if the mobile practice vehicle is an extension of an existing hospital or clinic, and/or has the capabilities of providing aftercare and/or emergency care services.

4. A notice of available aftercare and/or emergency care services, including the telephone number and physical address of the local veterinary hospital or clinic, or hospital or existing clinic associated with the mobile practice vehicle if applicable, shall be posted in a conspicuous place in or on the mobile practice vehicle, and a copy of the notice or information shall be given to each client prior to the provision of veterinary care.

5. The veterinarian operating or providing veterinary care in a mobile practice vehicle shall physically remain on site until all patients are discharged to their respective owners, or authorized agents.

6. The veterinarian operating or providing veterinary care in a mobile practice vehicle shall comply with the requirements for record keeping regarding the storage, maintenance and availability to the client of the medical records for the patients as set forth in the board's rules on record keeping.

7. The veterinarian operating or providing veterinary care in a mobile practice vehicle shall comply with the requirements for maintaining, administering, dispensing, and

prescribing any drug, medicine, chemical, and/or biological agent as set forth in the board's rules.

8. The veterinarian operating or providing veterinary care in a mobile practice vehicle shall be responsible for the information and representations provided to the clients by the staff of the mobile practice vehicle.

9. The veterinarian operating or providing veterinary care in a mobile practice vehicle shall have his license or current renewal, in good standing, to practice veterinary medicine in Louisiana on display in a conspicuous place on or in the mobile practice vehicle.

10. The veterinarian operating or providing veterinary care in a mobile practice vehicle shall make all decisions which involve, whether directly or indirectly, the practice of veterinary medicine and will be held accountable for such decisions in accordance with the Veterinary Practice Act, the board's rules, and other applicable laws.

11. The veterinarian operating or providing veterinary care in a mobile practice vehicle shall be responsible for compliance with all standards and requirements set forth in the Veterinary Practice Act, the board's rules, and other applicable laws.

12. The veterinarian operating or providing veterinary care in a mobile practice vehicle shall provide the board, upon written demand, a copy of the written agreement with the local veterinary hospital or clinic required by this rule, if such is not the hospital or clinic associated with the mobile practice vehicle and/or the mobile practice vehicle does not have the capabilities of providing aftercare and/or emergency care services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1330 (October 1993), amended LR 23:969 (August 1997), LR 24:2123 (November 1998), LR 31:3162 (December 2005), LR 33:2424 (November 2007), LR 35:

Wendy D. Parrish  
Administrative Director

0812#042

### **DECLARATION OF EMERGENCY**

#### **Department of Health and Hospitals Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers  
New Opportunities Waiver  
Skilled Nursing Services Rate Increase  
(LAC 50:XXI.14301)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amends LAC 50:XXI.14301 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services implemented a new home and community-based services

waiver, the New Opportunities Waiver (NOW), designed to enhance the support services available to individuals with developmental disabilities (*Louisiana Register*, Volume 30, Number 6). The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amended the provisions of the June 20, 2004, Rule governing the reimbursement methodology for the New Opportunities Waiver to implement a wage enhancement for direct support professionals who provide certain designated services to NOW recipients (*Louisiana Register*, Volume 34, Number 2).

During the 2008 Regular Session of the Louisiana Legislature, additional funds were allocated to the department for the equalization of the reimbursement rates paid for skilled nursing services provided in the NOW program with the reimbursement rates paid for extended skilled nursing services provided under the Medicaid State Plan in the Home Health Program. As a result of the allocation of additional funds, the department now amends the February 20, 2008 Rule governing the reimbursement methodology for the NOW to increase the reimbursement rates paid for skilled nursing services.

This action is being taken to promote the health and well-being of waiver recipients by increasing the availability of skilled nursing services to NOW participants. It is estimated that implementation of this Emergency Rule will increase expenditures in the New Opportunities Waiver program by approximately \$585,730 for state fiscal year 2008-2009.

Effective January 1, 2009, the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amends the provisions of the February 20, 2008 Rule governing the reimbursement methodology for the New Opportunities Waiver.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

## **Part XXI. Home and Community Based Services**

### **Waivers**

#### **Subpart 11. New Opportunities Waiver**

#### **Chapter 143. Reimbursement**

#### **§14301. Reimbursement Methodology**

A. - A.7.c. ...

d. Effective January 1, 2009, the reimbursement rate for skilled nursing services provided by a registered nurse (RN) will be increased by 39 percent of the rate in effect on December 31, 2008.

e. Effective January 1, 2009 the reimbursement rate for skilled nursing services provided by a licensed practical nurse (LPN) will be increased by 31 percent of the rate in effect on December 31, 2008.

A.8. - F.10.d. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services ,LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:252 (February 2008), amended LR 35:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, Louisiana 70821-3117. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

0812#067

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing**

#### **Early and Periodic Screening, Diagnosis and Treatment Health Services—EarlySteps Reimbursement Rate Increase (LAC 50:XV.7107)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.7107 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions establishing early intervention services for infants and toddlers with disabilities under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program in conjunction with the transfer of Louisiana's early intervention system under Part C of the Individuals with Disabilities Education Act (IDEA) to the Department of Health and Hospitals (*Louisiana Register*, Volume 30, Number 4). The April 20, 2004 Rule was amended to reduce the reimbursement rates paid through the EarlySteps Program (Part C of IDEA) for health services rendered to infants and toddlers with disabilities (*Louisiana Register*, Volume 31, Number 8).

During the 2008 Regular Session of the Louisiana Legislature, additional funds were allocated to increase the reimbursement rate paid for services provided to infants and toddlers with disabilities who receive services through the EarlySteps Program. As a result of the allocation of additional funds, the bureau proposes to increase the reimbursement rate paid for certain services provided to infants and toddlers in the EarlySteps Program.

This action is being taken to promote the health and welfare of Medicaid recipients and to maintain access to EPSDT services by encouraging the continued participation of providers in the Medicaid Program.

Effective December 31, 2008, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for certain Early and Periodic Screening, Diagnosis and Treatment health services provided to infants and toddlers in the EarlySteps Program.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XV. Services for Special Populations**  
**Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment**

**Chapter 71. Health Services**

**§7107. EarlySteps Reimbursement**

A. EarlySteps (Part C of IDEA). The reimbursement for health services rendered to infants and toddlers with disabilities who are 0 to 3 years old shall be the lower of billed charges or 75 percent of the rate (a 25 percent reduction) in effect on January 31, 2005.

B. EarlySteps (Part C of IDEA). Effective for dates of service on or after September 1, 2008, the reimbursement for certain health services rendered in a natural environment to infants and toddlers with disabilities who are 0 to 3 years old shall be increased by 25 percent of the rate in effect on August 31, 2008.

1. For purposes of these provisions, a natural environment may include a child's home or settings in the community that are natural or normal for the child's age and peers who have no disability (i.e., childcare facility, nursery, preschool program, or playground).

2. The following services rendered in a natural environment shall be reimbursed at the increased rate:

- a. occupational therapy;
- b. physical therapy;
- c. speech language pathology services;
- d. audiology services; and
- e. psychological services.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:800 (April 2004), amended LR 31:2030 (August 2005), amended, LR 35:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

0812#068

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals**  
**Office of the Secretary**  
**Bureau of Health Services Financing**

Hospital Licensing Standards  
Emergency Preparedness—Electronic  
Reporting Requirements (LAC 48:I.9335)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 48:I.9335 in the Medical Assistance Program as authorized by R.S. 36:254 and 40:2100-2115. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule that established new regulations governing the licensing of hospitals (*Louisiana Register*, Volume 29, Number 11). The department promulgated an Emergency Rule to amend the November 20, 2003 Rule to establish provisions requiring all hospitals licensed in Louisiana to file electronic reports of their operational status during declared disasters or other emergency situations (*Louisiana Register*, Volume 34, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 10, 2008 Emergency Rule.

This action is being taken to prevent imminent peril to the health and well-being of Louisiana citizens who depend on hospital services during declared disasters or other emergencies.

Effective January 9, 2009, upon declaration of the Secretary and notification to the Louisiana Hospital Association, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing emergency preparedness for all hospitals licensed in Louisiana.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part I. General Administration**

**Subpart 3. Health Standards**

**Chapter 93. Hospitals**

**Subchapter B. Hospital Organization and Services**

**§9335. Emergency Preparedness**

A. - M. ...

N. Effective immediately, upon declaration of the secretary and notification to the Louisiana Hospital Association, all hospitals licensed in Louisiana shall file an electronic report with the EMSsystem, or a successor operating system during a declared emergency, disaster or public health emergency.

1. The electronic report shall be filed twice daily at 7:30 a.m. and 2:30 p.m. throughout the duration of the disaster or emergency event.

2. The electronic report shall include, but not be limited to the following:

- a. status of operation (open, limited or closed);
- b. availability of beds by category (medical/surgery, intensive care unit, pediatric, psychiatric, etc.);
- c. other resources that may be needed by a hospital in an emergency (blood products, fuel, pharmaceuticals, personnel, etc.);
- d. generator status;
- e. evacuation status; and
- f. shelter in place status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), amended LR 29:2409 (November 2003), LR 35:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

0812#069

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

#### Medical Transportation Program Emergency Aircraft Transportation Rotor Winged Ambulance Rate Increase (LAC 50:XXVII.351 and 353)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XXVII.351 and 353 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions in the Medical Transportation Program establishing a new reimbursement methodology for emergency air ambulance services, including helicopters and fixed winged aircrafts, and implemented standards for payment (*Louisiana Register*, Volume 22, Number 2). Reimbursement for these services is a base rate derived from the Medicare rates plus mileage.

Act 19 of the 2008 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to increase the reimbursement rate paid for rotor winged ambulance services. In compliance with the directives of Act 19, the bureau promulgated an Emergency Rule to amend the February 20, 1996 Rule governing the reimbursement methodology for emergency air medical transportation to increase the reimbursement rate paid for rotor winged emergency ambulance services and to clarify and repromulgate the existing Rule in its entirety for the purpose of adopting these provisions in a codified format for inclusion in the Louisiana Administrative Code (*Louisiana Register*, Volume 34, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 16, 2008 Emergency Rule.

This action is being taken to promote the health and welfare of recipients and to maintain access to emergency air medical transportation services.

Effective January 15, 2009, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rate paid for rotor winged emergency ambulance services.

### Title 50

## PUBLIC HEALTH—MEDICAL ASSISTANCE

### Part XXVII. Medical Transportation Program

#### Chapter 3. Emergency Medical Transportation

##### Subchapter C. Aircraft Transportation

#### §351. Standards for Participation

A. Rotor winged (helicopters) and fixed winged emergency aircraft must be certified by the Department of Health and Hospitals, Bureau of Health Services Financing in order to receive Medicaid reimbursement. All air ambulance services must be provided in accordance with state laws and regulations governing the administration of these services.

B. All air ambulance services must comply with state laws and regulations governing the personnel certifications of the emergency medical technicians, registered nurses, respiratory care technicians, physicians and pilots as administered by the appropriate agency of competent jurisdiction.

C. Prior Authorization. The Prior Authorization Unit of the fiscal intermediary must approve the medical necessity for all air ambulance services.

1. Air ambulance claims will be reviewed and a determination will be made based on the following requirements. Air ambulance services are covered only if:

a. speedy admission of the patient is essential and the point of pick-up of the patient is inaccessible by a land vehicle; or

b. great distance or other obstacles are involved in getting the patient to the nearest hospital with appropriate services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

#### §353. Reimbursement

A. Fixed Winged Air Ambulance. The reimbursement for fixed winged air ambulance services is the Medicare base rate plus mileage in effect as of January 1, 1995.

1. Payment for air mileage will be limited to actual air mileage from the point of pick-up to the point of delivery of the patient.

2. Payment for a round trip transport on the same day between two hospitals is the base rate plus the round trip mileage.

B. Rotor Winged (Helicopters) Air Ambulance. Effective for dates of service on or after September 17, 2008, the reimbursement rate paid for rotor winged air ambulance services shall be increased to 100 percent of the 2008 Louisiana Medicare allowable rate.

C. If a land-based ambulance must be used for part of the transport, the land-based ambulance provider will be reimbursed separately according to the provisions governing emergency ground transportation.

D. Reimbursement for oxygen and disposable supplies will be made separately when the provider incurs these costs. Reimbursement for these services is based on Medicare rates as established in the state's fee schedule effective April 1, 1995.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

0812#065

## DECLARATION OF EMERGENCY

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

Targeted Case Management  
Reimbursement Methodology  
(LAC 50:XV.10701-10703)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.10701 and adopts §10703 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.B(1) et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated the rules governing optional targeted case management services under the Medicaid Program for inclusion in the Louisiana Administrative Code (*Louisiana Register*, Volume 30, Number 5). The department promulgated an Emergency Rule to amend the provisions of the May 20, 2004 Rule governing the reimbursement methodology for targeted case management services to require case management agencies to bill in 15 minute increments and to establish cost reporting requirements (*Louisiana Register*, Volume 34, Number 5).

During the 2008 Regular Session of the Louisiana Legislature, additional funds were allocated to increase the reimbursement rate paid for services provided to infants and toddlers with disabilities who receive services through the EarlySteps Program. As a result of the allocation of additional funds, the bureau promulgated an Emergency Rule to amend the May 1, 2008 Emergency Rule to increase the reimbursement rate paid for targeted case management services provided to infants and toddlers (*Louisiana Register*, Volume 34, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2008 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients and to maintain access to targeted case management services by encouraging the continued participation of providers in the Medicaid Program.

Effective December 31, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology governing targeted case management services provided to infants and toddlers.

### Title 50

## PUBLIC HEALTH—MEDICAL ASSISTANCE

### Part XV. Services for Special Populations

#### Subpart 7. Targeted Case Management

#### Chapter 107. Reimbursement

#### §10701. Reimbursement

A. Effective for dates of service on or after May 1, 2008, reimbursement for case management services shall be a prospective rate for each approved unit of service provided to the recipient.

1. One quarter hour (15 minutes) is the standard unit of service which covers both service provision and administrative costs.

2. All services must be prior authorized.

B. - C. ...

D. Effective for dates of service on or after September 1, 2008, the reimbursement rate for targeted case management services rendered to infants and toddlers shall be increased by 25 percent of the rate in effect on August 31, 2008.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1040 (May 2004), amended LR 31:2032 (August 2005), amended LR 35:

**§10703. Cost Reports**

A. Case management agencies shall provide annual cost reports based on the state fiscal year, starting with the period beginning July 1, 2008 and ending June 30, 2009. Completed reports are due within 90 calendar days after the end of each fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

0812#066

**DECLARATION OF EMERGENCY**

**Department of Public Safety and Corrections  
State Uniform Construction Code Council**

Wind Mitigation Surveyor  
(LAC 55:VI.703 and 705)

The Louisiana Department of Public Safety and Corrections, Louisiana State Uniform Construction Code Council hereby adopts the following Emergency Rule governing the implementation of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730.21 et seq. This Rule is being adopted in accordance with the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act. This Emergency Rule becomes effective on the date of the signature by the authorized representative of the Louisiana State Uniform Construction Council (LSUCCC), November 24, 2008, and shall remain in effect for the maximum period allowed by the APA, which is 120 days.

As a result of the widespread damage caused by hurricanes and wind storms, the Legislature enacted Acts 2007, No. 323 of the Regular Session of the Louisiana Legislature, which mandates that insurers provide a premium discount for insureds who build or retrofit a structure to comply with the State Uniform Construction Code and/or install mitigation improvements or retrofit their property utilizing construction techniques demonstrated to reduce the amount of loss from a windstorm or hurricane. The Department of Insurance then promulgated a rule providing for certain types of individuals (qualified professionals) who were qualified to certify the construction which would qualify an insured for a discount. The Louisiana State Uniform Construction Code Council must now, through this rule, further define one of the classes of "qualified professionals." Immediate adoption of this rule will greatly facilitate the utilization of the Department of Insurance regulation.

**Title 55**

**PUBLIC SAFETY**

**Part VI. Uniform Construction Code**

**Chapter 7. Certificates of Registration**

**§703 Classifications and Required Certifications for  
Municipal or Parish Building Code Enforcement  
Officers**

- A. - A.1. ...
- B. Definitions

\* \* \*

*Wind Mitigation Surveyor*—the wind mitigation surveyor classification of third party provider is limited to performing a survey to complete the Louisiana Hurricane Loss Mitigation Survey Form. The Survey Form, LAC 37 Part XIII, Section 12721. Appendix A, is to be utilized by consumers applying for justifying discounts for features that comply with building codes, or, for installed mitigation improvements utilizing construction techniques demonstrated to reduce the amount of hurricane loss from a windstorm. This classification does not qualify applicant to perform building code inspections in compliance with the Louisiana State Uniform Construction Code Council (LSUCCC) or International Code Council (ICC) classifications for building inspectors.

- C.1. - 2.c.v. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.34(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 33:292 (February 2007), amended LR 33:1683 (August 2007), LR 34:93 (January 2008), LR 35:

**§705. Third Party Providers**

- A. - A.1. ...
- B. Insurance. All third party providers shall carry at least \$500,000 in professional liability insurance. Proof of valid and current insurance coverage must be provided to the Council upon registration and renewal of registration.

1. Exceptions

a. Wind mitigation surveyors shall carry at least \$300,000 in professional liability insurance.

- C. - D.3. ...

E. A wind mitigation surveyor classification of third party provider may specialize as a wind mitigation surveyor upon meeting the following qualifications:

- 1. possession of a Home Inspector License through the Louisiana State Board of Home Inspectors; and
- 2. possession of a Certificate of Completion for the 2006 IRC Hurricane Resistant Residential Construction program, or other equivalent program approved by the LSUCCC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.34(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:292 (February 2007), amended LR 33:2462 (November 2007), LR 35:

Denise Jobe  
Administrator

0812#004

## DECLARATION OF EMERGENCY

### Department of Revenue Policy Services Division

#### Individual Income Tax Filing Extensions (LAC 61:III.2501)

Under the authority of R.S. 47:1511, 1514, 103(D), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, declares an emergency to exist and adopts by emergency process the attached rule to require taxpayers who are unable to file the state individual income tax return by the due date to request an extension to file.

The secretary of revenue is authorized to grant a six-month extension of time to file an individual income tax return and, in the past, taxpayers who were granted an automatic federal filing extension were allowed the same state income tax filing extension if a copy of the federal extension was attached to the front of their state tax return. Beginning with the 2008 income tax year, filed in 2009, taxpayers will be required to request a specific state individual income tax extension on or before the tax return's due date to be allowed an extension of time to file their state income tax return. This new requirement is the result of changing technologies and processing procedures that make the recording of federal filing extensions unreliable.

The Department of Revenue has determined that this emergency action is necessary to prevent undue delay in notifying taxpayers and tax preparers of this new requirement and to prevent taxpayers from incurring late filing penalties and other related penalties as a result of failing to timely file for a state extension. This Emergency Rule becomes effective on November 26, 2008 and shall remain in effect for a period of 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

#### Title 61

#### REVENUE AND TAXATION

#### Part III. Administrative Provisions and Miscellaneous Chapter 25. Returns

#### §2501. Individual Income Tax Filing Extensions

A. The secretary may grant a reasonable extension of time to file a state individual income tax return, not to exceed six months.

1. To obtain a filing extension, the taxpayer must make the request on or before the tax return's due date. A federal extension will not extend the time to file a state individual income tax return.

2. Extensions may be requested by submitting an Application for Extension of Time to File Louisiana Individual Income Tax or by requesting the extension electronically via the Department of Revenue's web site.

#### B. Filing Extension Does Not Extend Time to Pay Tax

1. A filing extension granted by the secretary only allows for an extension of time to file the tax return. The extension does not allow an extension of time to pay the tax due.

2. To avoid interest and penalty assessments, estimated taxes due should be paid on or before the original due date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 1514, and 103(D).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 35:

Cynthia Bridges  
Secretary

0812#005

## DECLARATION OF EMERGENCY

### Department of Revenue Louisiana Tax Commission

#### Ad Valorem Taxation

(LAC 61:V.101, 303, 703, 705, 901, 907, 1103, 1301, 1305, 1307, 1503, 2101, 2501, 2503, 3101, 3501)

The Louisiana Tax Commission, at its meetings on October 21, 2008, and November 5, 2008, exercised the provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, adopted the following additions, deletions and amendments to the Real/Personal Property Rules and Regulations.

This Emergency Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2009. Cost indexes required to finalize these assessment tables are not available to this office until late October 2008. The effective date of this Emergency Rule is January 1, 2009.

#### Title 61

#### REVENUE AND TAXATION

#### Part V. Ad Valorem Taxation

#### Chapter 1. Constitutional and Statutory Guides to Property Taxation

#### §101. Constitutional Principles for Property Taxation

A. - F.3.h. ...

G. Special Assessment Level

1. - 1.d. ...

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, for the year prior to the application for the special assessment, exceeds \$64,655 for tax year 2009 (2010 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:489 (March 2007), LR 34:673 (April 2008), LR 35:

#### Chapter 3. Real and Personal Property

#### §303. Real Property

A. - B.2. ...

C. In assessing affordable rental housing, the income approach is recommended. As defined in this Section,

"affordable rental housing" means residential housing consisting of one or more rental units, the construction and/or rental of which is subject to Section 42 of the Internal Revenue Code (26 USC 42), the Home Investment Partnership Program under the Cranston-Gonzalez National Affordable Housing Act (42 USC 12741 et seq.), the Federal Home Loan Banks Affordable Housing Program established pursuant to the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) of 1989 (Public Law 101-73), or any other federal, state or similar program intended to provide affordable housing to persons of low or moderate income and the occupancy and maximum rental rates of such housing are restricted based on the income of the persons occupying such housing.

1. Audited financial statements shall be submitted to the assessor as an attachment to the LAT filing, or as soon thereafter as practicable, but no later than the last date that the assessment lists are open for public inspection each year pursuant to Louisiana R.S. 47:1992. For properties under construction and newly constructed property prior to the first full year of operation, the owner shall provide net operating income based on projected or pro-forma operating income and expense information.

2. The capitalization rate shall be set by the Louisiana Tax Commission in conjunction with their Rulemaking Session.

D. The Louisiana Tax Commission has ordered all property to be reappraised for the 2008 tax year in all parishes. All property is to be valued as of January 1, 2007.

E. The annual ratio studies of the Tax Commission will be indexed to the date of the last reappraisal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 7:44 (February 1981), amended by the Department of Revenue and Taxation, Tax Commission, LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 17:611 (June 1991), LR 21:186 (February 1995), amended by the Department of Revenue, Tax Commission, LR 25:312 (February 1999), LR 26:506 (March 2000), LR 29:367 (March 2003), LR 30:487 (March 2004), LR 34:678 (April 2008). LR 35:

**Chapter 7. Watercraft**

**§703. Tables—Watercraft**

**A. Floating Equipment—Motor Vessels**

Table 703.A Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2008	0.980	1	94	.92
2007	1.019	2	87	.89
2006	1.074	3	80	.86
2005	1.124	4	73	.82

Table 703.A Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
2004	1.209	5	66	.80
2003	1.251	6	58	.73
2002	1.272	7	50	.64
2001	1.280	8	43	.55
2000	1.290	9	36	.46
1999	1.314	10	29	.38
1998	1.318	11	24	.32
1997	1.329	12	22	.29
1996	1.351	13	20	.27

**B. Floating Equipment—Barges (Non-Motorized)**

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2008	0.980	1	97	.95
2007	1.019	2	93	.95
2006	1.074	3	90	.94
2005	1.124	4	86	.93
2004	1.209	5	82	.92
2003	1.251	6	78	.91
2002	1.272	7	74	.90
2001	1.280	8	70	.90
2000	1.290	9	65	.84
1999	1.314	10	60	.79
1998	1.318	11	55	.72
1997	1.329	12	50	.66
1996	1.351	13	45	.61
1995	1.371	14	40	.55
1994	1.421	15	35	.50
1993	1.461	16	31	.45
1992	1.489	17	27	.40
1991	1.507	18	24	.36
1990	1.537	19	22	.34
1989	1.578	20	21	.33
1988	1.663	21	20	.33

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:490 (March 2007), LR 34:678 (April 2008), LR 35:

**§705. Tables—Watercraft**

A. Table 705.A—140' - 159'

Table 705.A 140' - 159'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008	2002	1997	1992	1987
				2003	1998	1993	1988	Earlier
Supply Vessel (OSV)	\$4,500	\$1,801,000	1.14	.86	.72	.58	.44	.30
Offshore Towing	\$3,300	\$1,801,000	0.97	1766	1478	1191	903	616
				1502	1258	1013	769	524

B. Table 705.B—160' - 179'

Table 705.B 160' - 179'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008	2002	1997	1992	1987
				2003	1998	1993	1988	Earlier
Supply Vessel (OSV)	\$5,000	\$3,088,000	1.21	.86	.72	.58	.44	.30
Offshore Towing	\$5,000	\$3,088,000	1.21	3213	2690	2167	1644	1121
				3213	2690	2167	1644	1121

C. Table 705.C—180' - 199'

Table 705.C 180' - 199'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008	2002	1997	1992	1987
				2003	1998	1993	1988	Earlier
Supply Vessel (OSV)	\$6,500	\$4,117,000	1.43	.86	.72	.58	.44	.30
Offshore Towing	\$6,250	\$4,117,000	1.39	5063	4239	3415	2590	1766
				4921	4120	3319	2518	1717

D. Table 705.D—180' - 199'

Table 705.D 180' - 199'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008	2002	1997	1992	1987
				2003	1998	1993	1988	Earlier
AHT Tug/Supp	\$6,500	\$4,825,000	1.43	.86	.72	.58	.44	.30
				5934	4968	4002	3036	2070

E. Table 705.E—200' - 219'

Table 705.E 200' - 219'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008	2002	1997	1992	1987
				2003	1998	1993	1988	Earlier
Supply Vessel (OSV)	\$8,500	\$6,948,000	1.71	.86	.72	.58	.44	.30
AHT Tug/Supp	\$8,000	\$6,948,000	1.64	10218	8554	6891	5228	3564
Offshore Towing	\$8,750	\$6,948,000	1.75	9799	8204	6609	5014	3418
				10457	8754	7052	5350	3648

F. Table 705.F—220' - 230'

Table 705.F 220' - 230'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008	2002	1997	1992	1987
				2003	1998	1993	1988	Earlier
Supply Vessel (OSV)	\$10,000	\$8,235,000	1.93	.86	.72	.58	.44	.30
AHT Tug/Supp	\$14,000	\$8,235,000	2.50	13668	11443	9218	6993	4768
Offshore Towing	\$9,000	\$8,235,000	1.78	17705	14823	11941	9059	6176
				12606	10554	8502	6450	4397

G. Table 705.G—231' and Longer

Table 705.G 231' and Longer								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008 - 2003 .86	2002 - 1998 .72	1997 - 1993 .58	1992 - 1988 .44	1987 - Earlier .30
Supply Vessel (OSV)	\$11,250	\$10,474,000	2.11	19006	15912	12818	9724	6630
AHT Tug/Supp	\$16,300	\$10,474,000	2.83	25492	21342	17192	13042	8892

H. Table 705.H—60' - 70'

Table 705.H 60' - 70'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008 - 2003 .86	2002 - 1998 .72	1997 - 1993 .58	1992 - 1988 .44	1987 - Earlier .30
Offshore Crew	\$600	\$401,000	1.10	379	318	256	194	132

I. Table 705.I—85' - 99'

Table 705.I 85' - 99'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008 - 2003 .86	2002 - 1998 .72	1997 - 1993 .58	1992 - 1988 .44	1987 - Earlier .30
Offshore Crew	\$1,000	\$535,000	1.13	520	435	351	266	181

J. Table 705.J—100' - 119'

Table 705.J 100' - 119'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008 - 2003 .86	2002 - 1998 .72	1997 - 1993 .58	1992 - 1988 .44	1987 - Earlier .30
Offshore Crew	\$2,500	\$1,137,000	1.33	1301	1089	877	665	454
Utility Vessel	\$2,300	\$1,137,000	1.27	1242	1040	838	635	433

K. Table 705.K—120' - 140'

Table 705.K 120' - 140'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008 - 2003 .86	2002 - 1998 .72	1997 - 1993 .58	1992 - 1988 .44	1987 - Earlier .30
Offshore Crew	\$2,900	\$1,606,000	1.23	1699	1422	1146	869	593
Utility Vessel	\$2,500	\$1,606,000	1.13	1561	1307	1053	799	544

L. Table 705.L—141' - 165'

Table 705.L 141' - 165'								
Type	2009 LAA Day Rate	Base Cost	Multiplier	2008 - 2003 .86	2002 - 1998 .72	1997 - 1993 .58	1992 - 1988 .44	1987 - Earlier .30
Offshore Crew	\$4,000	\$3,078,000	1.17	3097	2593	2089	1585	1080
Utility Vessel	\$4,000	\$3,078,000	1.17	3097	2593	2089	1585	1080

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:490 (March 2007), LR 35:

**Chapter 9. Oil and Gas Properties**  
**§901. Guidelines for Ascertaining the Fair Market Value of Oil and Gas Properties**

A. - B.2. ....

3. Each well is assessed in accordance with guidelines establishing "fair market value".

C. Explanations

*Inactive Wells*—wells that are shut-in. Shut-in status becomes effective on the date the application for shut-in status is filed, consistent with the Louisiana Department of Conservation requirements.

*Injection Wells*—wells completed as single or wells reclassified by the Louisiana Department of Conservation after a conversion of another well. Wells are used for gas and water injection for production purposes, also used for disposal wells.

*Multiple Completions*—wells consisting of more than one producing zone. Deepest or primary completion may or may not be the base well number depending upon the Louisiana Department of Conservation permits and classification.

*Production Depth*—the depth from the surface to the active lower perforation in each producing zone in which the well is completed. As an example, a well completed in three separate zones is a triple completion and will have three different production depths as determined by the depth of the active lower perforation for each completion. Provided, however, that in the case of wells drilled with a minimum of 80 degrees deviation from vertical for a distance of at least 50 feet, *production depth* shall mean the true vertical distance from the surface of the earth to the lowest point in the formation that is penetrated by a horizontal lateral.

*Single Completions*—

- a. well originally completed as a single;
- b. well reclassified by the Louisiana Department of

Conservation after a conversion of multiple completed well to a single producing zone.

*Water Wells*—wells used for production purposes only—both fresh and salt water supply.

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 2:359 (November 1976), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 9:69 (February 1983), LR 17:1213 (December 1991), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 31:717 (March 2005), LR 33:492 (March 2007), LR 35:

**§907. Tables—Oil and Gas**

A. The cost-new schedules below cover only that portion of the well subject to ad valorem taxation. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with Louisiana R.S. 47:1957, the assessor may request additional documentation.

**Instructions for Use of Tables 907.A-1, 907.A-2 and 907.A-3 and Procedure for Arriving at Assessed Value**

1. Determine if well is located in Region 1 by reference to Table 907.B-1. See note for Region 2 or Region 3 (offshore state waters) wells.
2. Multiply depth of well by appropriate 15 percent of Cost-New amount as indicated in Table 907.A-1, 907.A-2 or 907.A-3.
3. Multiply the appropriate percent good factor based on age of the well as found in Table 907.B-2.
4. Use Oil cost-new to assess all active service wells for region where located.
5. See explanations in Section 901.E regarding the assessment of multiple completion wells.
6. For wells recompleted, use new perforation depth to determine fair market value.
7. Adjustments for Allowance of Economic Obsolescence
  - a. All wells producing 10 bbls oil or 100 mcf gas, or less, per day, as well as, all active service wells (i.e., injection, salt water disposal, water source, etc.) shall be allowed a 40 percent reduction. Taxpayer shall provide the assessor with proper documentation to claim this reduction. Once the 40 percent reduction has been applied and calculated, an additional 60 percent reduction shall be applied for any well producing 1 bbl of oil or 10 mcf of gas or less per day.
  - b. All inactive (shut-in) wells shall be allowed a 90 percent reduction.
  - c. Deduct any additional obsolescence that has been appropriately documented by the taxpayer, as warranted, to reflect fair market value.
  - d. All oil and gas property assessments may be based on an individual cost basis.
  - e. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

\* \* \*

2. Serial Number to Percent Good Conversion Chart

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	33 Year Life Percent Good
2008	236927	Higher	96
2007	234780	236926	92
2006	232639	234779	88
2005	230643	232638	84
2004	229010	230642	80
2003	227742	229009	76
2002	226717	227741	72
2001	225352	226716	68
2000	223899	225351	64
1999	222882	223898	60
1998	221596	222881	56
1997	220034	221595	52
1996	218653	220033	48
1995	217588	218652	44
1994	216475	217587	40
1993	215326	216474	36
1992	214190	215325	32
1991	212881	214189	28
1990	211174	212880	24
1989	Lower	211173	20*
VAR.	900000	Higher	50

\*Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

**C. Surface Equipment**

1. Listed below is the cost-new of major items used in the production, storage, transmission and sale of oil and gas. Any equipment not shown shall be assessed on an individual basis.

2. All surface equipment, including other property associated or used in connection with the oil and gas industry in the field of operation, must be rendered in accordance with guidelines established by the Tax Commission and in accordance with requirements set forth on LAT Form 12-Personal Property Tax Report—Oil and Gas Property.

3. Oil and gas personal property will be assessed in seven major categories, as follows:

- a. oil, gas and associated wells;
- b. oil and gas equipment (surface equipment);
- c. tanks (surface equipment);
- d. lines (oil and gas lease lines);
- e. inventories (material and supplies);
- f. field improvements (docks, buildings, etc.);
- g. other property (not included above).

4. The cost-new values listed below are to be adjusted to allow depreciation by use of the appropriate percent good listed in Table 907.B.2. The average age of the well/lease/field will determine the appropriate year to be used for this purpose.

5. Economic and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, economic or functional obsolescence may be given.

6. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
***	***
Separators—(No metering equipment included)	
Horizontal—Filter /1,440 psi (High Pressure)	
6-5/8" OD x 5'-6"	4,100
8-5/8" OD x 7'-6"	4,450
10-3/4" OD x 8'-0"	6,250
12-3/4" OD x 8'-0"	8,400
16" OD x 8'-6"	13,500
20" OD x 8'-6"	19,950
20" OD x 12'-0"	21,000
24" OD x 12'-6"	28,300
30" OD x 12'-6"	41,300
36" OD x 12'-6"	49,100
Separators—(No metering equipment included)	
Vertical 2—Phase /125 psi (Low Pressure)	
24" OD x 7'-6"	4,650
30" OD x 10'-0"	5,000
36" OD x 10'-0"	10,450
Vertical 3—Phase /125 psi (Low Pressure)	
24" OD x 7'-6"	4,900
24" OD x 10'-0"	5,550
30" OD x 10'-0"	7,700
36" OD x 10'-0"	10,950
42" OD x 10'-0"	12,700
Horizontal 3—Phase /125 psi (Low Pressure)	
24" OD x 10'-0"	7,250
30" OD x 10'-0"	9,300
36" OD x 10'-0"	10,150
42" OD x 10'-0"	16,200

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Vertical 2—Phase /1440 psi (High Pressure)	
12-3/4" OD x 5'-0"	2,750
16" OD x 5'-6"	4,100
20" OD x 7'-6"	7,800
24" OD x 7'-6"	9,450
30" OD x 10'-0"	14,400
36" OD x 10'-0"	18,650
42" OD x 10'-0"	29,850
48" OD x 10'-0"	35,200
54" OD x 10'-0"	53,300
60" OD x 10'-0"	66,650
Vertical 3 - Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	4,800
20" OD x 7'-6"	8,400
24" OD x 7'-6"	9,750
30" OD x 10'-0"	15,050
36" OD x 10'-0"	19,250
42" OD x 10'-0"	31,400
48" OD x 10'-0"	36,400
Horizontal 2—Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	4,700
20" OD x 7'-6"	7,550
24" OD x 10'-0"	10,300
30" OD x 10'-0"	15,850
36" OD x 10'-0"	20,100
42" OD x 15'-0"	40,800
48" OD x 15'-0"	47,050
Separators—(No metering equipment included)	
Horizontal 3—Phase /1440 psi (High Pressure)	
16" OD x 7'-6"	7,250
20" OD x 7'-6"	8,100
24" OD x 10'-0"	11,800
30" OD x 10'-0"	16,800
36" OD x 10'-0"	24,200
36" OD x 15'-0"	27,050
Offshore Horizontal 3—Phase /1440 psi (High Pressure)	
30" OD x 10'-0"	34,850
36" OD x 10'-0"	33,250
36" OD x 12'-0"	48,250
36" OD x 15'-0"	50,350
42" OD x 15'-0"	78,150
***	***

**Table 907.C-2.Note**

...  
AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:

**Chapter 11. Drilling Rigs and Related Equipment**  
**§1103. Drilling Rigs and Related Equipment Tables**

**A. Land Rigs**

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
3,000	893,000	134,000

Table 1103.A Land Rigs		
4,000	1,151,200	172,700
5,000	1,643,800	246,600
6,000	2,130,900	319,600
7,000	2,612,300	391,800
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
8,000	3,088,300	463,200
9,000	3,558,600	533,800
10,000	4,023,400	603,500
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
11,000	4,482,600	672,400
12,000	4,936,200	740,400
13,000	5,384,300	807,600
14,000	5,826,800	874,000
15,000	6,263,700	939,600
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
16,000	6,695,000	1,004,300
17,000	7,120,800	1,068,100
18,000	7,541,000	1,131,200
19,000	7,955,700	1,193,400
20,000	8,364,700	1,254,700
Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
21,000	8,768,200	1,315,200
25,000 +	9,666,200	1,449,900

Barges (Hull)—Assess Barges (Hull) at 25 percent of the assessment for the rig value bracket, and add this to the proper rig assessment to arrive at total for barge and its drilling rig.

Living quarters are to be assessed on an individual basis.

**B. Jack-Ups**

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment
IC	0-199 FT.	\$ 50,000,000	\$ 7,500,000
	200-299 FT.	100,000,000	15,000,000
	300-Up FT.	200,000,000	30,000,000
***	***	***	***

\*\*\*

**D. Well Service Rigs Land Only (Good Condition)**

Table 1103.D Well Service Rigs Land Only (Good Condition)				
Class	Mast	Engine	Fair Market Value	Assessment
I	72' X 125M# 75' X 150M#	6V71	234,000	35,100
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	8V71	330,000	49,500
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	8V92	360,000	54,000

Table 1103.D Well Service Rigs Land Only (Good Condition)				
Class	Mast	Engine	Fair Market Value	Assessment
IV	102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M#	12V71	390,000	58,500
V	105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M#	12V71 12V92	441,000	66,150
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	12V71 (2) 8V92	500,000	75,000
VII	117' X 215M#	(2) 8V92 (2) 12V71	580,000	87,000

NOTE: These tables assume complete rigs in good condition. If it is documented to the assessor that any rig is incomplete or is in less than good condition, these amounts should be adjusted.

D.1. - D.3.b.i. ...

**E. Consideration of Obsolescence**

1. Functional and/or economic obsolescence is a loss in value of personal property above and beyond physical deterioration. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with Louisiana R.S. 47:1957, the assessor may request additional documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:683 (April 2008), LR 35:

**Chapter 13. Pipelines**

**§1301. Guidelines for Ascertaining the Fair Market Value of Pipelines**

**A. General**

1. Pipelines, except those regulated pipelines, which are assessed as public service properties as provided by R.S. 47:1851(K), are to be assessed by parish assessors. Two separate classes of pipelines are identified because of differences in function, design and quality. The two classes are "lease lines," which are generally of lower quality, subject to changes in routes, etc.; and, "other pipelines," which are generally larger and of higher quality.

2. Both classes of pipelines are to be assessed in the taxing district where located. A copy of LAT Form 14 is to be provided the pipeline owner. Surface equipment associated with pipelines (compressor stations, booster stations, etc.) are to be reported separately on LAT Form 5.

Surface pipeline related equipment is to be valued individually at cost factored to current value less physical deterioration. Pipelines are to be valued for assessment purposes at cost less physical deterioration. A cost schedule is provided for the various sizes of "other pipelines" (See Tables 1307.A and B). Represented in these schedules is the cost-new, as of the appropriate assessment date, for the different size pipelines. This cost is to be reduced for the appropriate allowance for physical deterioration (See Table 1307.C), based on the age of the pipeline, by multiplying replacement cost by the appropriate percent good factor. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with Louisiana R.S. 47:1957, the assessor may request additional documentation.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

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### §1305. Reporting Procedures

A. - E. ...

F. Assessment will be based on fair market value. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with Louisiana R.S. 47:1957, the assessor may request additional documentation.

G. Pipeline sales, properly documented, should be considered by the assessor as the fair market value, provided the sale meets all tests relative to it being a valid sale.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:940 (November 1984), LR 17:1213 (December 1991), amended by the Department of Revenue, Tax Commission, LR 24:488 (March 1998), LR 25:316 (February 1999), LR 26:508 (March 2000), LR 35:

### §1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines Onshore

Table 1307.A Current Costs for Other Pipelines Onshore		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
2	\$156,970	\$23,550
4	183,290	27,490
6	214,020	32,100
8	249,900	37,490
10	291,800	43,770
12	340,720	51,110
14	397,850	59,680
16	464,550	69,680
18	542,440	81,370
20	633,680	95,050
22	739,570	110,940
24	863,570	129,540
26	1,008,350	151,250
28	1,177,410	176,610

Table 1307.A Current Costs for Other Pipelines Onshore		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
30	1,374,810	206,220
32	1,605,310	240,800
34	1,874,460	281,170
36	2,188,720	328,310
38	2,555,680	383,350
40	2,984,160	447,620
42	3,484,480	522,670
44	4,068,680	610,300
46	4,750,820	712,620
48	5,547,340	832,100

NOTE: Excludes river and canal crossings

B. Current Costs for Other Pipelines Offshore

Table 1307.B Current Costs for Other Pipelines Offshore		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
6	\$892,320	\$133,850
8	900,580	135,090
10	904,000	135,600
12	915,740	137,360
14	935,820	140,370
16	964,230	144,630
18	1,000,970	150,150
20	1,046,040	156,910
22	1,099,450	164,920
24	1,161,190	174,180
26	1,231,260	184,690
28	1,309,660	196,450
30	1,396,390	209,460
32	1,491,460	223,720
34	1,594,850	239,230
36	1,706,580	255,990
38	1,826,640	274,000
40	1,955,030	293,250
42	2,091,760	313,760
44	2,236,820	335,520
46	2,390,200	358,530
48	2,551,920	382,790

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:426 (March 2001), LR 31:719 (March 2005), LR 32:432 (March 2006), LR 33:494 (March 2007), LR 34:684 (April 2008), LR 35:

## Chapter 15. Aircraft

### §1503. Aircraft (Including Helicopters) Table

A. Aircraft (Including Helicopters)

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (10 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2008	0.980	1	97	.95
2007	1.019	2	93	.95
2006	1.074	3	90	.94
2005	1.124	4	86	.93
2004	1.209	5	82	.92

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (10 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2003	1.251	6	78	.91
2002	1.272	7	74	.90
2001	1.280	8	70	.90
2000	1.290	9	65	.84
1999	1.314	10	60	.79
1998	1.318	11	55	.72
1997	1.329	12	50	.66
1996	1.351	13	45	.61
1995	1.371	14	40	.55
1994	1.421	15	35	.50
1993	1.461	16	31	.45
1992	1.489	17	27	.40
1991	1.507	18	24	.36
1990	1.537	19	22	.34
1989	1.578	20	21	.33
1988	1.663	21	20	.33

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:495 (March 2007), LR 34:685 (April 2008), LR 35:

**Chapter 21. Leased Equipment**

**§2101. Guidelines for Ascertaining the Fair Market Value of Leased Equipment**

A. - F.1. ...

G. Consideration of Obsolescence when Using the Cost Approach. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with Louisiana R.S. 47:1957, the assessor may request additional documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1952 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4: 209 (May 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 10:40 (January 1984), LR 13:248 (April 1987), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 35:

**Chapter 25. General Business Assets**

**§2501. Guidelines for Ascertaining the Fair Market Value of Office Furniture and Equipment, Machinery and Equipment, and Other Assets Used in General Business Activity**

A. - H.2.f. ...

3. Procedure 3 shall be used to develop fair market value when supporting data for the analysis of economic and/or functional obsolescence has been submitted.

4. If external (economic) and/or functional obsolescence/munificence, when documented and supported by the taxpayer, is not included in the valuation when warranted, a value greater or lower than fair market value will result.

5. Otherwise, use Procedure 1 to calculate the fair market value.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 31:719 (March 2005), LR 33:495 (March 2007), LR 34:685 (April 2008), LR 35:

**§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property**

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**B. Cost Indices**

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2008 = 100*
2008	1	1427.3	0.980
2007	2	1373.3	1.019
2006	3	1302.3	1.074
2005	4	1244.5	1.124
2004	5	1157.3	1.209
2003	6	1118.6	1.251
2002	7	1100.0	1.272
2001	8	1093.4	1.280
2000	9	1084.3	1.290
1999	10	1065.0	1.314
1998	11	1061.8	1.318
1997	12	1052.7	1.329
1996	13	1036.0	1.351
1995	14	1020.4	1.371
1994	15	985.0	1.421
1993	16	958.0	1.461
1992	17	939.8	1.489
1991	18	928.5	1.507
1990	19	910.2	1.537
1989	20	886.5	1.578
1988	21	841.4	1.663
1987	22	806.9	1.734
1986	23	795.4	1.759
1985	24	787.9	1.776
1984	25	776.4	1.802
1983	26	755.8	1.851

\*Reappraisal Date: January 1, 2008 – 1399.2 (Base Year)

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**D. Composite Multipliers 2009 (2010 Orleans Parish)**

Table 2503.D Composite Multipliers 2009 (2010 Orleans Parish)									
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.69	.83	.85	.88	.90	.92	.93	.95	.96
2	.50	.70	.74	.81	.86	.89	.92	.95	.95
3	.37	.56	.61	.72	.82	.86	.91	.94	.94
4	.18	.38	.46	.61	.75	.82	.89	.93	.93
5		.28	.36	.52	.70	.80	.88	.92	.92
6		.23	.24	.41	.61	.73	.85	.91	.91

Table 2503.D Composite Multipliers 2009 (2010 Orleans Parish)									
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
7			.23	.33	.50	.64	.79	.90	.90
8				.28	.38	.55	.70	.90	.89
9				.26	.31	.46	.63	.84	.88
10					.28	.38	.57	.79	.87
11					.26	.32	.49	.72	.86
12						.29	.41	.66	.85
13						.27	.35	.61	.81
14							.32	.55	.77
15							.30	.50	.74
16							.29	.45	.70
17								.40	.66
18								.36	.59
19								.34	.52
20								.33	.47
21								.33	.47
22									.45
23									.42
24									.36
25									.36
26									.35

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007), LR 34:686 (April 2008), LR 35:

**Chapter 31. Public Exposure of Assessments; Appeals §3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings**

A. - D. ...

E. Each assessor shall publish two notices of the parish's Board of Review appeal hearing dates in the local newspaper within a period of 21 and 7 days prior to the actual hearing date(s). Each assessor shall then notify the Tax Commission in writing of the Board of Review hearing date(s) and shall provide the commission with an affidavit executed by the local paper demonstrating proof of publication. Appeals must be received by the Board of Review no later than seven days prior to the public hearing.

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AUTHORITY NOTE: Promulgated in accordance with LSA-Constitution of 1974, Article VII, §18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999), LR 26:512 (March 2000), LR 30:492 (March 2004), LR 32:435 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 35:

**Chapter 35. Miscellaneous §3501. Service Fees—Tax Commission**

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period beginning on July 1, 2008, and ending on June 30, 2010, in connection with services performed by the Tax Commission as follows:

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 28:521 (March 2002), LR 30:493 (March 2004), LR 31:724 (March 2005), LR 32:439 (March 2006), LR 33:502 (March 2007), LR 35:

James D. "Pete" Peters  
Chairman

0812#049

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**2008 Territorial Sea Shrimp Closure**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close state outside waters to shrimping by zone each year as it deems appropriate, the Wildlife and Fisheries Commission hereby orders a closure to shrimping in that portion of state outside waters, south of the Inside/Outside Shrimp Line as described in R.S. 56:495, from the western shore of Freshwater Bayou Canal at 92 degrees 18 minutes 33 seconds west longitude to the U.S. Coast Guard navigational light off the northwest shore of Caillou Boca at 29 degrees 03 minutes 10 seconds north latitude and 90 degrees 50 minutes 27 seconds west longitude. This closure is effective at official sunset, Tuesday, December 16, 2008.

R.S. 56:498 provides that the possession count on saltwater white shrimp for each cargo lot shall average no more than 100 (whole specimens) count per pound except during the time period from October fifteenth through the third Monday in December. Current biological sampling conducted by the Department of Wildlife and Fisheries has indicated that white shrimp in this portion of state outside waters do not average 100 possession count and additional small white shrimp are expected to recruit to these waters. This action is being taken to protect these small white shrimp and provide them the opportunity to grow to a larger and more valuable size.

The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to close to shrimping, if necessary to protect small white shrimp, any part of remaining state outside waters, if biological and technical data indicate the need to do so or if

enforcement problems develop, and to reopen any area closed to shrimping when the closure is no longer necessary; and hereby authorizes the Secretary of the Department of Wildlife and Fisheries to open and close special shrimp seasons in any portion of state inside waters where such a season would not detrimentally impact developing brown shrimp populations.

Patrick C. Morrow  
Chairman

0812#011

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Reef Fish—Harvest Regulations**

The reef fish fishery in the Gulf of Mexico is cooperatively managed by the Louisiana Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC) and the National Marine Fisheries Service (NMFS) with advice from the Gulf of Mexico Fishery Management Council (Gulf Council). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S., which in Louisiana is generally 3 miles offshore.

Rules have been promulgated by NMFS, effective on August 4, 2008, to modify existing rules for harvest of greater amberjack and gray triggerfish in the Gulf of Mexico (Reef Fish Amendment 30A). NMFS typically requests consistent regulations in order to enhance the effectiveness and enforceability of regulations for EEZ waters.

In order to enact regulations in a timely manner so as to have compatible regulations in place in Louisiana water to coincide with the regulation set forth by NMFS, it is necessary that emergency rules be enacted.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons and size limits and all rules and regulations pursuant thereto, and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set size limits and daily take limits based upon biological and technical data for saltwater finfish taken or possessed in Louisiana waters, the Wildlife and Fisheries Commission hereby declares:

Captain and crew members of charter vessels and headboats shall not harvest or possess greater amberjack, red snapper, or grouper of any species while operating as charter

vessels and headboats as defined in Federal Regulations 50 CFR Part 622.2—their bag limit is zero for all of these species.

The minimum size limit for greater amberjack harvested recreationally is increased from 28 inches fork length to 30 inches fork length.

The minimum size limit for gray triggerfish harvested recreationally or commercially is increased from 12 inches total length to 14 inches fork length.

These emergency rules shall be effective at 12:01 a.m., December 8, 2008.

Robert J. Barham  
Secretary

0812#012

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Shrimp Season Extension Portions of Zone 1**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which allows the Wildlife and Fisheries Commission to delegate to the Secretary of the Department the powers, duties and authority to set seasons, and in accordance with a resolution adopted by the Wildlife and Fisheries Commission on August 7, 2008 which authorized the Secretary of the Department of Wildlife and Fisheries to change the closing dates of the 2008 Fall Shrimp Season if biological and technical data indicate the need to do so or if enforcement problems develop and to close all or parts of state inside and outside waters if significant numbers of small white shrimp are found in these waters, and to re-open these waters if significant numbers of marketable size shrimp are available for harvest, the Secretary of the Department of Wildlife and Fisheries does hereby declare that the 2008 fall inshore shrimp season in that portion of Shrimp Management Zone 1 extending north of the south shore of the Mississippi River Gulf Outlet, including Lake Pontchartrain and Lake Borgne, shall be extended until further notice. The open waters of Breton and Chandeleur Sounds as described by the double-rig line (R.S. 56:495.1(A)(2) shall remain open until 6 a.m., March 31, 2009.

Robert J. Barham  
Secretary

0812#041

# Rules

## RULE

### Department of Agriculture and Forestry Agricultural and Environmental Sciences Horticulture Commission

Definitions; Enforcement; Requirements for Licensees or Permittees; Stop Orders and Notice of Non-Compliance (LAC 7:XXIX.102, 115 and 123)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:3801(F) the Department of Agriculture and Forestry, Horticulture Commission, hereby adopts amendments to regulations to provide for the defining of terms used in the regulations; for a person holding a license in a regulated profession to be the licensee only for one person or business; for stop orders and notices of non-compliance; and for circumstances when a person may be brought to a hearing for alleged violations related to stop orders and notices of non-compliance.

The purpose of these amendments is to define terms used in the regulations, prevent the improper use of licenses, and to adopt procedures regarding the use of stop orders and notices of non-compliance and to establish the circumstances for adjudicatory proceedings related to stop orders or notices of non-compliance.

This Rule is enabled by R.S. 3:3801.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part XXIX. Horticulture Commission

##### Chapter 1. Horticulture

##### §102. Definitions

A. The words and terms defined in R.S. 3:3803 are applicable to this Chapter.

B. The following words and terms are defined for the purpose of enforcing the provisions of R.S. 3:3801 et seq.

\* \* \*

*Department*—The Louisiana Department of Agriculture and Forestry

\* \* \*

*Horticulture Law*—Louisiana Revised Statutes of 1950, Title 3, Chapter 24, §3801 et seq.

\* \* \*

*Stop Order and Notice of Non-Compliance*—a directive issued by the commissioner or the department or authorized agent to a person prohibiting that person from continuing a particular course of conduct or prohibiting the advertisement, application, distribution, disturbance, movement, performance, sale or offer for sale of a service or material thing, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3803.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Horticulture Commission, LR 26:627 (April 2000), amended LR 33:1854 (September 2007), LR 34:2547 (December 2008).

##### §103. Enforcement

###### A. Hearings

1. Investigative hearings shall be for the purpose of investigating alleged violations of the Horticulture Law or regulations promulgated by the commission.

###### A.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:183 (April 1982), amended LR 9:410 (June 1983), LR 34:2547 (December 2008).

##### §115. General Requirements for All Licensees or Permittees

###### A. ...

B. A person holding a license in a regulated profession may be the licensee for only one person or business. The licenses of all licensees regularly assigned to work in any outlet shall be prominently displayed at all times in a location accessible to the general public or any representative of the commission.

###### C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 20:640 (June 1994), LR 21:548 (June 1995), LR 31:1053 (May 2005), LR 34:2547 (December 2008).

##### §123. Stop Orders and Notice of Non-Compliance

A. A person believed to be in violation of the Horticulture Law or regulations of the commission may be issued a verbal or written stop order or written notice of non-compliance by the department or authorized agent to prevent possible future violations from occurring.

B. If an alleged violator refuses to accept a written stop order or notice of non-compliance when tendered or refuses or fails to claim such stop order or notice of non-compliance sent by certified mail, the stop order or notice of non-compliance shall be deemed to have been delivered to the alleged violator.

C. An adjudicatory proceeding before the commission shall commence against an alleged violator for the alleged violations that led to the issuance of the stop order or order of non-compliance, even if he is in compliance, under any of the following circumstances:

1. if the alleged violations involve fraudulent practices or activities;

2. if the alleged violations caused personal injury or economic loss other than payment for services rendered, to another person;

3. if the alleged violator has refused or failed to accept the stop order or order of non-compliance, or has attempted to avoid or evade delivery of the stop order or order of non-compliance.

D. An adjudicatory proceeding before the commission shall commence against an alleged violator for the alleged violations that led to the issuance of the stop order or order

of non-compliance if he refuses or fails to comply with the stop order or order of non-compliance.

E. No provision of this Section shall prevent the institution of an adjudicatory proceeding against an alleged violator who has not been issued a stop order or notice of non-compliance or for violations that occur after the issuance of a stop order or notice of non-compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Horticulture Commission, LR 34:2547 (December 2008).

Mike Strain, DVM  
Commissioner

0812#031

**RULE**

**Department of Agriculture and Forestry  
Livestock Brand Commission**

Brands, Grades and Inspections (LAC 7:IX.101 and 103)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:742, the Department of Agriculture and Forestry, Livestock Brand Commission, repeals regulations of the Livestock Brand Commission.

The department is repealing the current regulations at this time and will re-promulgate new regulations upon approval of the Livestock Brand Commission.

This Rule complies with and is enabled by R.S. 3:742 and R.S. 3:732.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part IX. Brands, Grades and Inspections**

**Chapter 1. Brands and Marks**

**§101. For the Prevention of Livestock Theft by Regulation or Livestock Movement on the Highways of the State (Regulation I)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:742 and R.S. 3:732.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Livestock Brand Commission, May 1951, adoption re-affirmed November 1951, repealed by the Department of Agriculture and Forestry, Livestock Brand Commission, LR 34:2548 (December 2008).

**§103. For the Prevention of Livestock Theft by Requiring Butchers and Slaughter Establishments to Keep Certain Records and Providing for the Inspection of Premises, Records, etc. (Regulation II)**

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:734, R.S. 3:744 and R.S. 3:732.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Livestock Brand Commission, January 1952, repealed by the Department of Agriculture and Forestry, Livestock Brand Commission, LR 34:2548 (December 2008).

Mike Strain  
Commissioner

0812#032

**RULE**

**Department of Agriculture and Forestry  
Office of Agro Consumer Services**

Petroleum Products and Motor Fuels  
(LAC 7:XXXV.Chapter 3)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 3:4608 and 3:4680, the Commissioner of Agriculture and Forestry, amends regulations to place regulations regarding motor fuels within the chapter dealing with petroleum products; to redefine biodiesel to coincide with the definition of biodiesel that is in federal and state law; to define what is a biodiesel blend; to make technical changes; and to adopt regulation governing labeling of dispensers from which diesel, biodiesel and gasoline-ethanol blends of motor fuel are sold.

It is essential that wholesalers, retailers, and consumers of motor vehicle fuels are made aware of the type of motor fuel that is being received and whether the motor fuel is blended with biodiesel, ethanol, or other types of motor fuels. The proper labeling of dispensers of diesel, biodiesel and gasoline-ethanol blends of motor fuel allow purchasers and consumers of these motor fuels to be aware of the nature of the motor fuel that is being purchased or consumed, so that they may make an informed decision as to whether they want to purchase or use the motor fuel. These regulations provide for the labeling of motor fuel dispensers to achieve this purpose.

This Rule is enabled by R.S. 3:4608 and 3:4680.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part XXXV. Agro-Consumer Services**

**Chapter 3. Petroleum Products and Motor Fuels**

**Subchapter A. Standards**

**§301. Definitions**

A. ...

\* \* \*

*Biodiesel*—a fuel comprised of mono-alkyl esters of long chain fatty acids derived from renewable resources including but not limited to vegetable oils, waste grease, or animal fat, and meeting the requirements of the American Society for Testing and Materials (ASTM) D-6751 or a diesel fuel substitute produced from non-petroleum renewable resources (inclusive of vegetable oils and animal fats) that meet the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency and any blending components derived from renewable fuel.

*Biodiesel Blend*—a blend of diesel fuel and biodiesel suitable for use as a fuel in compression ignition engines.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4602, 3:4608, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:28 (January 2005), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2548 (December 2008).

**§303. Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends**

A. - A.1.c. ...

2. Blends of gasoline and ethanol shall not exceed the ASTM D 4814 vapor pressure standard by more than 1.0 pounds per square inch (psi).

3. - 8. ...

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AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, 3:4680, and 3:4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:29 (January 2005), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008).

**§325. Diesel Fuel**

A. Diesel fuel sold, offered for sale, or distributed in Louisiana shall be identified by grades No. 1-D, No. 1-D (low sulfur), No. 2-D, No. 2-D (low sulfur), No. 2-D (ultra-low sulfur) or No. 4-D.

B. Each retail dispenser of diesel fuel shall be labeled according to the grade being dispensed. These labels shall be located on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position, in a type at least 12 mm (1/2 in) in height and 1.5 mm (1/16 in) stroke (width of type).

C. Before or at the time of delivery of premium diesel fuel, the retailer or the wholesale purchaser-consumer shall be provided on an invoice, bill of lading, shipping paper, or other documentation a declaration of all performance properties that qualifies the fuel as premium diesel fuel as required in §305.A.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:32 (January 2005), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008).

**§327. Biodiesel**

A. A biodiesel blend containing more than 5 percent of a biodiesel by volume shall be identified by the term "biodiesel blend." A blend containing 5 percent or less of a biodiesel by volume shall not be required to be identified by the term "biodiesel blend."

B. Each dispenser of biodiesel blends containing more than 5 percent but no more than 20 percent of a biodiesel shall be labeled with either the capital letter B followed by the numerical value representing the volume percentage of biodiesel fuel and ending with "biodiesel blend," (i.e., B10 biodiesel blend; B20 biodiesel blend), or the phrase "biodiesel blend between 5 percent and 20 percent" or similar words.

1. Each label shall be located on the upper 50 percent of the dispenser's front panel in a position clear and conspicuous from the driver's position.

2. The size, color and lettering shall conform to the requirements of 16CFR306.12.

C. The distributor of a biodiesel blended fuel that contains more than 5 percent of a biodiesel by volume shall, at the time of delivery, provide the retailer with a written statement, whether on an invoice, bill of lading, or shipping paper, or other document, of the volume by percent of

biodiesel in the fuel. The retailer shall keep this information as part of his records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008).

**§329. Aviation Turbine Fuels**

A. Aviation turbine fuels sold, offered for sale, or distributed in Louisiana shall be identified by Jet A, Jet A-1, or Jet B.

B. Each dispenser or airport fuel truck dispensing aviation turbine fuels shall be labeled in accordance with the "Standard for Aircraft Fuel Servicing," NFPA Standard 407.<sup>1</sup>

C. Each aircraft fuel-servicing vehicle shall have a sign on each side and the rear to indicate the product. The sign shall have letters at least 3 inches (75 mm) high of color sharply contrasting with its background for visibility. It shall show the word "FLAMMABLE" and the name of the product carried, such as "JET A," "JET B," "GASOLINE," or "AVGAS."

<sup>1</sup>National Fire Protection Association. A copy of the standard may be obtained from the NFPA web page www.nfpa.org or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Ma. 02169-7471, Telephone (617) 770-3000, Fax (617) 770-0700.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:32 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008).

**§331. Aviation Gasoline**

A. Aviation gasoline sold, offered for sale, or distributed in Louisiana shall be identified by Grade 80, Grade 100, or Grade 100LL.

B. Each dispenser or airport fuel truck dispensing aviation gasoline shall be labeled in accordance with the "Standard for Aircraft Fuel Servicing," NFPA Standard 407.<sup>1</sup>

C. Each aircraft fuel-servicing vehicle shall have a sign on each side and the rear to indicate the product. The sign shall have letters at least 3 inches (75 mm) high of color sharply contrasting with its background for visibility. It shall show the word "FLAMMABLE" and the name of the product carried, such as "JET A," "JET B," "GASOLINE," or "AVGAS."

<sup>1</sup>National Fire Protection Association. A copy of the standard may be obtained from the NFPA web page www.nfpa.org or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Ma. 02169-7471, Telephone (617) 770-3000, Fax (617) 770-0700.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008).

**§333. Fuel Oils**

A. Fuel Oil sold, offered for sale, or distributed in Louisiana shall be identified by the grades of No. 1, No. 2, No. 4 (Light), No. 4, No. 5 (Light), No. 5 (Heavy), or No. 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008).

### **§335. Kerosene (Kerosine)**

A. Kerosene sold, offered for sale, or distributed in Louisiana shall be identified by the grades No. 1-K or No. 2-K.

B. Each retail dispenser of kerosene shall be labeled as 1-K Kerosene or 2-K Kerosene. In addition, No. 2-K dispensers shall display the following legend: "Warning—Not Suitable For Use In Unvented Heaters Requiring No. 1-K." The lettering of this legend shall not be less than 12 mm (1/2 in) in height by 1.5 mm (1/16 in) stroke; block style letters and the color of lettering shall be in definite contrast to the background color to which it is applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673 and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2550 (December 2008).

### **§337. Gasoline-Alcohol Blends**

A. A dispenser of motor fuel containing greater than 1 percent but no more than 10 percent ethanol by volume shall have a label on both sides of the dispenser stating "contains ethanol" or "contains up to 10 percent ethanol," or "may contain up to 10 percent ethanol," or similar wording approved by the commissioner.

1. These labels shall be located on the upper 50 percent of the dispenser's front panel in a position clear and conspicuous from the driver's position, in a type at least 12 millimeter (1/2 in) in height, 1.5 millimeter (1/16 in) stroke (width of type).

2. The color of the lettering shall be in definite contrast to the background color to which it is applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2550 (December 2008).

### **§339. Fuel Ethanol**

A. Fuel ethanol sold, offered for sale, or distributed in Louisiana shall be identified by the capital letter E followed by the numerical value volume percentage of ethanol.

B. Each retail dispenser of fuel ethanol shall be labeled with the capital letter E followed by the numerical value volume percent denatured ethanol and ending with the word "ethanol", e.g., "E85 Ethanol."

C. Fuel ethanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2550 (December 2008).

### **§341. Fuel Methanol**

A. Fuel methanol sold, offered for sale, or distributed in Louisiana shall be identified by the capital letter M followed by the numerical value volume percentage of methanol.

B. Each retail dispenser of fuel methanol shall be labeled by the capital letter M followed by the numerical value volume percent and ending with the word "methanol", e.g., "M85 Methanol."

C. Fuel methanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2550 (December 2008).

### **§343. Retail Storage Tanks**

A. No water phase greater than 6 mm (1/4 in), as determined by an appropriate detection paste, is allowed to accumulate in any tank utilized in the storage of gasoline-alcohol blend, aviation gasoline, and aviation turbine fuel.

B. Water shall not exceed 50 mm (2 in) in depth when measured with water indicating paste in any tank utilized in the storage of biodiesel, diesel, gasoline, gasoline-ether blends, and kerosene sold at retail except as required in Subsection A.

C. The fill connection for any petroleum product storage tank or vessel supplying engine-fuel devices shall be permanently, plainly, and visibly marked as to the product contained.

D. When the fill connection device is marked by means of a color code, the color code shall be conspicuously displayed at the place of business.

E. Each retail location shall maintain on file a calibration chart or other means of determining the volume of each regulated product in each storage tank and the total capacity of such storage tank(s). This information shall be supplied immediately to the commissioner or his designee on request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2550 (December 2008).

### **§345. Sampling**

A. The commissioner or his designee may obtain samples of any and all petroleum products provided for in this Subchapter that are sold, offered for sale, distributed, or used in this state. The samples may be taken from any commercial weighing or measuring device used in the sale or distribution of petroleum products, from any tank or other container used in the transporting of such products, or from any tank or other container containing petroleum products intended for distribution or use in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2550 (December 2008).

### **§347. Nonconforming Product**

A. When the analysis of a sample of a petroleum product performed in conformity with the provisions of this Subchapter discloses that the product from which the sample was taken does not conform to the specifications fixed by

this Subchapter, it is the duty of the commissioner to immediately serve notice on the manufacturer, distributor or seller that the product must not be sold in the state. If the petroleum product is in the process of transportation and has not yet been delivered to the consignee or retailer, the commissioner or his designee may immediately notify the consignor of the result of the test and instruct said consignor to withdraw the product from sale in this state. Failure on the part of the consignor to obey these orders shall constitute a violation of this Subchapter.

B. If the petroleum product is not in the process of transportation, but is exposed or offered for sale or distribution, the commissioner or his designee may, by written order, stop the sale or distribution of this product. The retailer or distributor upon whom a stop-sale order is served is prohibited from exposing for sale, selling, or distributing this product until formally released by order of the commissioner. The stop-sale order given by the commissioner must apply only to that product and may not be extended to cover other petroleum products sold or distributed by a retail dealer or distributor which are found to conform to specifications fixed under the provisions of this Subchapter.

C. When the commissioner or his designee issues a written order to stop the offering for sale, sale, or distribution of a particular product which is maintained at a terminal or bulk plant facility, the terminal or bulk storage plant shall immediately notify all customers that received those product(s) and make any arrangements necessary to replace or adjust to specifications those product(s). The terminal or bulk storage plant shall also immediately notify the commissioner of those customers, their business locations, and the quantity of product delivered to each location. A release from a stop-sale order will be issued only after the commissioner or his designee has agreed upon final disposition of the product. Confirmation of disposition of products shall be made available in writing to the commissioner. Specific variations or exemptions may be made for fuels used for blending purposes or designed for special equipment or services and for which it can be demonstrated that the distribution will be restricted to those uses.

D. The commissioner or his designee may placard or seal any pump, dispenser, tank or container which contains a nonconforming product or which would dispense a petroleum product that does not conform to the appropriate specification in this Subchapter. No person shall deface, remove, or obscure any placard or seal posted or placed by the commissioner or his designee or act in any manner so as to interfere with or obstruct the commissioner or his designee in the discharge of his duties under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:34 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2550 (December 2008).

#### **§349. Product Registration**

A. All engine fuels designed for special use that do not meet ASTM specifications or standards set out in this Subchapter shall be registered with the commissioner, on forms prescribed by the commissioner, 30 days prior to

when the registrant wishes to engage in sales. The registration form shall include all of the following information.

1. Identity—business name, address(es), and telephone number(s).

2. Address—mailing address if different than business address.

3. Business Type—type of ownership of the distributor or retail dealer, such as an individual, partnership, association, trust, corporation, or any other legal entity or combination thereof.

4. Signature—an authorized signature, title, and date for each registration.

5. Product Description—product brand name and product description.

6. Product Specification—a product specification sheet shall be attached.

B. Registration is subject to annual renewal.

C. Renewal of a registration is required 30 days prior to any changes in the information required by Subsection A.

D. The commissioner may decline to register any product that actually or by implication would deceive or tend to deceive a purchaser as to the identity or the quality of the engine fuel.

E. Transferability—the registration is not transferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:34 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2551 (December 2008).

#### **§351. Test Methods and Reproducibility Limits**

A. ASTM Standard Test Methods referenced for use within the applicable Standard Specification shall be used to determine the specification values for enforcement purposes.

B. Reproducibility Limits

1. When determining the Antiknock Index acceptance or rejection of a gasoline sample, the AKI reproducibility limits as outlined in ASTM D 4814 Appendix X1 shall be utilized for enforcement purposes.

2. The reproducibility limits of the ASTM standard test method used for each test performed shall be utilized for enforcement purposes, except as indicated in Paragraph 1 above.

3. Dispute Resolution. In the event of a dispute over a reported test value, the guidelines presented in the specifications of ASTM D 3244, "Standard Practice for Utilization of Test Data to Determine Conformance with Specifications," shall be used to determine the acceptance or rejection of the sample.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:34 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2551 (December 2008).

Mike Strain, DVM  
Commissioner

0812#030

## RULE

### Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State  
Accountability System—Proficient in English  
(LAC 28:LXXXIII.4001)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC Part Number LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components that are required to change in response to state and federal laws and regulations. Proposed changes in Bulletin 111, §4001, establish reasonable guidelines for Limited English Proficient (LEP) students to achieve English proficiency. It will allow districts to focus limited resources on those students in greatest need of services. Current standards were deemed excessively high during discussion with the U.S. Department of Education and representatives from other states. These changes also allow special consideration for LEP students with disabilities.

#### Title 28

#### EDUCATION

#### Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System

#### Chapter 40. Definitions Related to English Proficiency §4001. Proficient in English

A. To be considered English proficient and exit limited English proficient (LEP) status, a LEP student must score as follows.

1. For grades K-2:
  - a. two years at composite level 5 on the English language development assessment (ELDA); or
  - b.i. one year at composite level 5 on ELDA; and
  - ii one year at grade-level/benchmark/low-risk on a standardized reading assessment, such as DRA or DIBELS.
2. For grades 3-12:
  - a. composite level 5 on ELDA; or
  - b.i one year at composite level 4 on ELDA; and
  - ii one year at proficient on English language arts portion of the iLEAP, LEAP, GEE, LAA 1, or LAA 2.

B. Students with disabilities who are unable to meet the above exit criteria after 4 years or more in LEP status because of their disability, as decided only by consensus of the members of the school building level committee (SBLC), may be exited from LEP status (but will still be required to take statewide assessments).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004), amended LR 33:254 (February 2007), amended LR 34:2552 (December 2008).

Amy B. Westbrook, Ph.D.  
Executive Director

0812#051

## RULE

### Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment  
Standards and Practices  
(LAC 28:CXI.501, 511, 1801, 2007,  
2011, 2015, 2305, 2311, and 3505)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 118—Statewide Assessment Standards and Practices*: §501. District Test Coordinator Role; §511. School Test Coordinator; §1801. Description; §2007. Performance Standards; §2011. Grade 4 Achievement Level Descriptors; §2015. Grade 8 Achievement Level Descriptors; §2305. Format; §2311. Proficiency Standards; and §3505. Foreign Exchange Students. The document will provide new and updated statewide test information and provide easy access to that information. It was necessary to revise the bulletin at this time to incorporate new and edited guidelines to the responsibilities of district and school test coordinators and the end-of-course tests. New policy language, updates, and scaled-score ranges are being added to Chapter 20, Louisiana Alternate Assessment Level 2 (LAA 2) and English Language Development Assessment (ELDA). Policy language is added to Chapter 35 which updates the assessment of Foreign Exchange students.

#### Title 28

#### EDUCATION

#### Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

#### Chapter 5. Test Coordinator Responsibilities Subchapter A. District Test Coordinator Role §501. District Test Coordinator Role

- A.1. - A.2.w. ...
- x. distributing student reports and summary reports to school test coordinators and principals in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1533 (July 2005), amended LR 33:258 (February 2007), LR 34:1352 (July 2008), LR 34:2552 (December 2008).

#### Subchapter B. School Test Coordinator Role §511. School Test Coordinator

- A. - A.21. ...
22. distributing student reports and summary reports to teachers and parents in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1533 (July 2005), amended LR 33:258 (February 2007), LR 34:1352 (July 2008), LR 34:2552 (December 2008).

**Chapter 18. End-of-Course Tests**

**§1801. Description**

A. - B. ...

C. EOCT will be offered at the end of the fall and spring semesters.

1. Students completing the course at the end of the fall semester shall participate in the fall test regardless of the grade earned during the fall semester.

2. Students completing the course at the end of the spring semester shall participate in the spring test regardless of the grade earned during the spring semester.

D. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:258 (February 2007), amended LR 34:432 (March 2008), LR 34:1353 (July 2008), LR 34:2553 (December 2008).

**Chapter 20. LEAP Alternate Assessment, Level 2 Subchapter C. Achievement Levels and Performance Standards**

**§2007. Performance Standards**

A. - D. ...

**LAA 2 Achievement Levels and Scaled Score Ranges**

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
	Grade 4			
Basic	301-340	315-340	306-340	301-340
Approaching Basic	263-300	282-314	263-305	272-300
Foundational	227-262	248-281	224-262	250-271
Pre-Foundational	100-226	100-247	100-223	100-249

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
	Grade 5			
Basic	286-340	282-340		
Approaching Basic	247-285	250-281		
Foundational	213-246	215-249		
Pre-Foundational	100-212	100-214		

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
	Grade 6			
Basic	280-340	281-340		
Approaching Basic	239-279	248-280		
Foundational	177-238	201-247		
Pre-Foundational	100-176	100-200		

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
	Grade 7			
Basic	286-340	292-340		
Approaching Basic	236-285	255-291		
Foundational	185-235	220-254		
Pre-Foundational	100-184	100-219		

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
	Grade 8			
Basic	315-340	321-340	305-340	297-340
Approaching Basic	269-314	296-320	267-304	263-296
Foundational	223-268	263-295	222-266	237-262
Pre-Foundational	100-222	100-262	100-221	100-236



**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:391.4 (A).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:270 (February 2007), amended LR 33:2350 (November 2007), LR 34:2553 (December 2008).

**Subchapter D. Achievement Level Descriptors**

**§2011. Grade 4 Achievement Level Descriptors**

A. - B. ...

\* \* \*

**C. Grade 4 Science Achievement Level Descriptors**

<b>Pre-Foundational</b>
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> <li>1. demonstrate understanding of fundamental scientific tasks;</li> <li>2. read/interpret simple data in graphic form;</li> <li>3. make simple observations and respond to directed questions;</li> <li>4. exhibit understanding of the ways in which properties of objects, motion of objects, and forms of energy apply to their everyday life;</li> <li>5. exhibit understanding of characteristics, life cycles, and environments of organisms;</li> <li>6. exhibit understanding of basic concepts related to properties of Earth materials, weather, and objects in the night sky; and</li> <li>7. exhibit understanding of basic components of an ecosystem.</li> </ol>

**D. Grade 4 Social Studies Achievement Level Descriptors**

<b>Basic</b>
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to :</p> <ol style="list-style-type: none"> <li>1. Geography: recognize major geographic features on maps and globes; define geographic vocabulary; describe the connection between people and the environment; interpret geographical data; define the world in spatial terms; and define processes that shape Earth.</li> <li>2. Civics: identify the branches and major responsibilities of government; and list the rights and responsibilities of citizens as stated in the Bill of Rights.</li> <li>3. Economics: identify fundamental economic concepts and terms; recognize that the decisions made by individuals, households, businesses, and governments result in economic outcomes.</li> <li>4. History: identify and describe important people, events, and documents in American history; demonstrate an understanding of the concepts of historical perspective and time; distinguish between primary and secondary historical sources; and describe some scientific and technological advancements.</li> </ol>
<b>Approaching Basic</b>
<p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. Geography: identify major geographic features on maps and globes; select words that define geographic vocabulary; explain the connection between people, places, man and the environment; identify geographical data; identify the world in spatial terms; and identify processes that shape Earth.</li> <li>2. Civics: recognize that the United States has a government that is divided into branches; and state that citizens have rights and responsibilities.</li> <li>3. Economics: identify some fundamental economic concepts and terms.</li> <li>4. History: recognize a few of the most important people, events, and documents in American history; demonstrate a limited understanding of the concepts of historical perspective and time; and identify some important scientific and technological advancements.</li> </ol>

<b>Basic</b>
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. perform simple scientific tasks when given clear, sequential directions;</li> <li>2. recognize questions that are appropriate to investigation; organize and present data in a graphic form and draw conclusions based on data;</li> <li>4. demonstrate basic knowledge/understanding about properties of objects, motion of objects, and forms of energy as they apply to their everyday life;</li> <li>5. demonstrate basic knowledge/understanding about characteristics, life cycles, and environments of organisms and relationships;</li> <li>6. demonstrate basic knowledge/understanding about basic concepts related to properties of Earth materials, weather, and objects in the night sky; and</li> <li>7. demonstrate basic knowledge/understanding about basic components of an ecosystem and recognize how change impacts the system.</li> </ol>
<b>Approaching Basic</b>
<p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. perform portions of simple scientific tasks when given clear, sequential directions;</li> <li>2. read/interpret some data in a graphic form;</li> <li>3. respond to simple directed questions;</li> <li>4. exhibit partial understanding of properties of objects, motion of objects, and forms of energy as they apply to their everyday life;</li> <li>5. exhibit partial understanding of characteristics, life cycles, and environments of organisms and relationships;</li> <li>6. exhibit partial understanding of basic concepts related to properties of Earth materials, weather, and objects in the night sky; and</li> <li>7. exhibit partial understanding of basic components of ecosystems and recognize how change impacts systems.</li> </ol>
<b>Foundational</b>
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. demonstrate limited understanding of fundamental scientific tasks;</li> <li>2. read/interpret simple data in graphic form;</li> <li>3. make simple observations and respond to directed questions, when prompted;</li> <li>4. exhibit limited understanding of the ways in which properties of objects, motion of objects, and forms of energy apply to their everyday life;</li> <li>5. exhibit limited understanding of characteristics, life cycles, and environments of organisms;</li> <li>6. exhibit limited understanding of basic concepts related to properties of Earth materials, weather, and objects in the night sky; and</li> <li>7. exhibit limited understanding of basic components of an ecosystem.</li> </ol>

<b>Foundational</b>
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. Geography: identify limited geographic features on maps and globes; recognize words that define geographic vocabulary; state the connection between people, places, man and the environment; identify some geographical data; demonstrate limited understanding of the world in spatial terms; and identify some processes that shape Earth.</li> <li>2. Civics: demonstrate limited knowledge of the structure of the United States government and limited understanding that citizens have rights and responsibilities.</li> <li>3. Economics: recognize some fundamental economic concepts and terms.</li> <li>4. History: recognize a limited number of the most important people, events, and documents in American history; demonstrate a fundamental understanding of the concepts of historical perspective and time; and recognize some important scientific and technological advancements.</li> </ol>

<b>Pre-Foundational</b>
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> <li>1. Geography: identify major geographic features on maps and globes; select words that define geographic vocabulary; explain the connection between people, places, man and the environment; identify geographical data; identify the world in spatial terms; and identify processes that shape Earth.</li> <li>2. Civics: recognize that the United States has a government that is divided into branches; and state that citizens have rights and responsibilities.</li> <li>3. Economics: identify fundamental economic concepts and terms.</li> <li>4. History: recognize a few of the most important people, events, and documents in American history; demonstrate basic understanding of the concepts of historical perspective and time; and identify important scientific and technological advancements.</li> </ol>

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:391.4(A).

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:271 (February 2007), amended LR 34:2554 (December 2008).

**§2015. Grade 8 Achievement Level Descriptors**

A. - B. ...

\* \* \*

**C. Grade 8 Science Achievement Level Descriptors**

<b>Basic</b>
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. demonstrate a fundamental knowledge of some theories and concepts;</li> <li>2. identify elements of a system and state one limiting factor when given a</li> <li>3. particular example;</li> <li>4. identify a simple model;</li> <li>5. begin to understand the nature of science; and</li> <li>6. show an awareness that science is subject to change.</li> </ol> <p>When given a problem, students at this level can:</p> <ol style="list-style-type: none"> <li>1. design a simple investigation by asking appropriate questions;</li> <li>2. identify the important variables and select appropriate tools to gather data; and</li> <li>3. interpret basic data and communicate a conclusion.</li> </ol> <p>These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.</p>

<b>Approaching Basic</b>
<p>A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to</p> <ol style="list-style-type: none"> <li>1. identify related elements of a system;</li> <li>2. identify elements of a simple model; and</li> <li>3. show some awareness that science is developing and changing.</li> </ol> <p>When given an investigation, students at this level can:</p> <ol style="list-style-type: none"> <li>1. answer specific scientific questions;</li> <li>2. identify at least one variable in an experiment; and</li> <li>3. seek and identify basic scientific data and communicate it.</li> </ol> <p>These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.</p>

<b>Foundational</b>
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. identify some elements of a system;</li> <li>2. demonstrate limited understanding of elements of a simple model; and</li> <li>3. show limited awareness that science is developing and changing.</li> </ol> <p>When given an investigation, students at this level can:</p> <ol style="list-style-type: none"> <li>1. answer simple scientific questions; and</li> <li>2. show limited knowledge and understanding of variables in an experiment and basic;</li> <li>3. scientific data.</li> </ol> <p>These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.</p>

<b>Pre-Foundational</b>
<p>A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.</p> <p>Students scoring at this level need to develop the ability to</p> <ol style="list-style-type: none"> <li>1. identify elements of a system;</li> <li>2. demonstrate understanding of elements of a simple model; and</li> <li>3. show awareness that science is developing and changing.</li> </ol> <p>When given a problem, students at this level can:</p> <ol style="list-style-type: none"> <li>1. answer simple scientific questions; and</li> <li>2. demonstrate knowledge and understanding of variables in an experiment; and</li> <li>3. scientific data.</li> </ol> <p>These skills should be demonstrated through the science disciplines—physical, life, earth/space, and the environmental sciences.</p>

**D. Grade 8 Social Studies Achievement Level Descriptors**

<b>Basic</b>
<p>A student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.</p> <p>Students scoring at this level generally exhibit the ability to:</p> <ol style="list-style-type: none"> <li>1. Geography: utilize vocabulary of geographic concepts relating to patterns, relationships, distance, direction, and location; use latitude and longitude to locate places; identify continents, oceans, or selected countries and cities; explain the differences between maps and globes, read map scales, and use an atlas/almanac; illustrate relationships that exist between the physical environment and human activity; identify the distinguishing characteristics of a region; and describe the movement of people, goods, services, and ideas.</li> <li>2. Civics: explain the major purposes of government; identify and explain the importance of basic principles of American</li> </ol>

constitutional democracy; describe major foreign policy of the U.S.; and describe the requirements of citizenship and naturalization in the U.S.

3. Economics: compare basic concepts related to economics; explain the causes and consequences of economic decision making; distinguish how specialization, skills, and knowledge affect the economic process; compare various economic systems and their historical impacts; and explain the role of supply and demand on production and distribution of goods and services.
4. History: identify and categorize people, places, events, and documents in historical context; understand the impact of diverse cultures on American life; explain the significance of major historical events; and explain the fundamental political ideas and institutions of American life.

**Approaching Basic**

A student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

Students scoring at this level generally exhibit the ability to:

1. Geography: obtain information from geographic models; draw a variety of maps; memorize various geographic data; and recognize that human activity is affected by the environment.
2. Civics: recognize types of government; identify the basic principles of American constitutional democracy; recognize a foreign policy issue; and list the rights and responsibilities of American citizens.
3. Economics: identify basic concepts and vocabulary terms related to economics; and discuss how supply and demand affects the price of goods and services.
4. History: identify historical people and places; demonstrate awareness of diverse cultures in America; name a variety of historical events; and recognize the fundamental political ideas and institutions of American life.

**Foundational**

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling but has demonstrated the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level generally exhibit the ability to:

1. Geography: obtain some information from geographic models; draw a map; recognize some geographic data; and demonstrate some awareness that human activity is affected by the environment.
2. Civics: recognize basic types of government; identify some basic principles of American constitutional democracy; demonstrate limited awareness of major foreign policy issues; and recognize the rights and responsibilities of American citizens.
3. Economics: identify a few basic concepts and vocabulary terms related to economics; and recognize some of the effects of supply and demand on the price of goods and services.
4. History: identify a limited number of major historical people and places; demonstrate a limited awareness of diverse cultures in America; recognize some major historical events; and recognize some fundamental political ideas and institutions of American life.

**Pre-Foundational**

A student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling. However, the student may be developing the foundational knowledge and skills that can be built upon to access the grade-level curriculum.

Students scoring at this level need to develop the ability to:

1. Geography: obtain information from geographic models; draw a variety of maps; memorize various geographic data; and recognize that human activity is affected by the environment.
2. Civics: recognize types of government; identify the basic principles of American constitutional democracy; recognize a foreign policy issue; and list the rights and responsibilities of American citizens.
3. Economics: identify basic concepts and vocabulary terms related to economics; and discuss how supply and demand affects the price of goods and services.
4. History: identify historical people and places; develop an awareness of diverse cultures in America; name a variety of historical events; and recognize the fundamental political ideas and institutions of American life.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:391.4(A).

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:272 (February 2007), amended LR 33:2037 (October 2007), LR 34:2555 (December 2008).

**Chapter 23. English Language Development Assessment (ELDA)**

**Subchapter C. ELDA Test Design**

**§2305. Format**

A. - A.4. ...

5. Speaking Constructed Responses (CR)—grade levels 3-12

	Listening	Speaking	Reading	Writing
K	Inventory: 7 specified tasks	Inventory: 8 specified tasks	Inventory: 14 specified tasks	Inventory: 9 performance activities
1-2	Inventory: 7 specified tasks	Inventory: 8 specified tasks	Inventory: 14 specified tasks	Inventory: 9 performance activities
3-5	50 MC	16 CR	50 MC	3 SCR 1 ECR 15 MC
6-8	50 MC	16 CR	50 MC	3 SCR 1 ECR 15 MC
9-12	50 M	16 CR	60 Multiple Choice	4 SCR 1 ECR 15 MC

**AUTHORITY NOTE:** Promulgated in accordance with 20 USCS, Section 6311.

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:259 (February 2007), amended LR 34:2556 (December 2008).

**Subchapter E. Proficiency Levels and Proficiency Standards**

**§2311. Proficiency Standards**

A. Proficiency standards for ELDA listening, speaking, reading, and writing tests are finalized in scaled-score form. The scaled-score ranges vary per grade cluster.

**ELDA Proficiency Level Scaled-Score Ranges**

Domain	Proficiency Level 1	Proficiency Level 2	Proficiency Level 3	Proficiency Level 4	Proficiency Level 5
<b>Kindergarten</b>					
Listening	50–99	100–130	131–170	171–191	192–230
Speaking	40–99	100–130	131–166	167–196	197–230
Reading	30–99	100–127	128–164	165–184	185–240
Writing	30–99	100–135	136–156	157–192	193–220
<b>Grade Cluster 1–2</b>					
Listening	50–114	115–145	146–178	179–199	200–230
Speaking	40–112	113–135	136–170	171–199	200–230

Domain	Proficiency Level 1	Proficiency Level 2	Proficiency Level 3	Proficiency Level 4	Proficiency Level 5
Reading	30–107	108–141	142–167	168–199	200–240
Writing	30–94	95–138	139–159	160–199	200–220
<b>Grade Cluster 3–5</b>					
Listening	100–449	450–543	547–644	645–724	725–930
Speaking	117–449	450–546	547–667	668–808	809–937
Reading	100–449	450–579	580–647	648–769	770–931
Writing	127–449	450–576	577–668	669–844	845–950
<b>Grade Cluster 6–8</b>					
Listening	115–553	554–625	626–717	718–805	806–941
Speaking	133–457	458–610	611–718	719–824	825–936
Reading	103–459	460–611	612–690	691–828	829–940
Writing	149–552	553–652	653–721	722–896	897–928
<b>Grade Cluster 9–12</b>					
Listening	118–555	556–631	632–728	729–849	850–950
Speaking	192–569	570–649	650–764	765–849	850–950
Reading	122–544	545–629	630–717	718–849	850–933
Writing	122–508	509–630	631–718	719–849	850–932

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:260 (February 2007), amended LR 34:2556 (December 2008).

**Chapter 35. Assessment of Students in Special Circumstances**

**§3505. Foreign Exchange Students**

A. Foreign exchange students shall take the appropriate assessment for their enrolled grade during the scheduled assessment period.

B. Since foreign exchange students are expected to be fully English proficient, they are not eligible for test accommodations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151.3 and R.S. 17:24.4

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1563 (July 2005), amended LR 34:2557 (December 2008).

Amy B. Westbrook, Ph.D.  
Executive Director

0812#052

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28: CXV. Chapter 23)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2375. Business Education, §2377. General Career and Technical Education, §2383. Marketing Education, and §2387. Trade and Industrial Education. The action is being proposed to up-date career and technical course offerings. In updating these course offerings our career and technical program of studies will be more aligned with national standards.

**Title 28**

**EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for School Administrators**

**Chapter 23. Curriculum and Instruction**

**§2375. Business Education**

A. The business education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Exploratory Keyboarding (Middle School)	6-8	-
Accounting I	10-12	1
Accounting II	11-12	1
Administrative Support Occupations	11-12	1
Business Communications	10-12	1
Business Computer Applications	10-12	1
Business Education Elective I, II	9-12	1/2-3
Business English	12	1
Business Law	11-12	1/2
Computer Technology Literacy	9-12	1
Computer Multimedia Presentations	11-12	1/2
Cooperative Office Education (COE)	12	3
Desktop Publishing	11-12	1
Economics	11-12	1
Entrepreneurship	11-12	1
Financial Mathematics	10-12	1
Introduction to Business Computer Applications	9-12	1
Keyboarding	9-12	1/2
Keyboarding Applications	9-12	1/2
Lodging Management I	10-12	1-3
Lodging Management II	11-12	1-3
Principles of Business	9-12	1
Telecommunications	10-12	1/2
Web Design	10-12	1
Web Design II	10-12	1
Word Processing	11-12	1

B. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 33:277, 278 (February 2007), LR 33:1614 (August 2007), LR 34:2557 (December 2008).

**§2377. General Career and Technical Education**

A. General career and technical education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
CTE Internship I	11-12	1
CTE Internship II	12	1
CTE Internship I	11-12	2
CTE Internship II	12	2
General Cooperative Education I	11-12	3
General Cooperative Education II	12	3
Education for Careers	9-12	1/2 -1
Teacher Cadet I	11-12	1
Teacher Cadet II	12	1
Advanced Television Broadcasting I	10-12	1-3
Advanced Television Broadcasting II	11-12	1-3
Digital Media I	10-12	1-3
Digital Media II	11-12	1-3
Oracle Internet Academy		
Database Design and Programming	11-12	1
Java Programming	11-12	1
Database Programming with PL/SQL	11-12	1
Finance Academy		
Economics and the World of Finance	11-12	1/2
Financial Services	11-12	1/2
Financial Planning	11-12	1/2
Securities	11-12	1/2
Insurance	11-12	1/2
International Finance	11-12	1/2
Principles of Finance	11-12	1/2
Hospitality and Tourism Academy		
Introduction to Travel and Tourism	11-12	1/2
Travel and Tourism II	11-12	1/2
Travel Geography	11-12	1/2
Systems Applications	11-12	1/2
Economics for Travel and Tourism	11-12	1/2
Information Technology Academy		
Introduction to Information Technology	11-12	1/2
Digital Networks	11-12	1/2
Advanced Web Tools	11-12	1/2
Databases	11-12	1/2
Introduction to the Internet	11-12	1/2
Logic for Programming	11-12	1/2
STAR I	11-12	1
STAR II	12	1
Entrepreneurship	11-12	1
Engineering Design I, II	11-12	1

B. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 32:546 (April 2006), LR 32:1415 (August 2006) LR 33:278 (February 2007), LR 33:2050 (October 2007), LR 34:1386 (July 2008), LR 34:2558 (December 2008).

**§2383. Marketing Education**

A. Marketing education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Advertising and Sales Promotion	11-12	1
Cooperative Marketing Education I	11-12	3
Cooperative Marketing Education II	12	3
Customer Service	12	1
Entrepreneurship	11-12	1
Marketing Education Elective I, II	9-12	1/2-3

Course Title(s)	Recommended Grade Level	Units
Marketing Management	11-12	1
Marketing Research	11-12	1
Principles of Marketing I	9-12	1
Principles of Marketing II	12	1
Retail Marketing	11-12	1
Tourism Marketing	11-12	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 33:1615 (August 2007), LR 34:2558 (December 2008).

**§2387. Trade and Industrial Education**

A. Trade and industrial education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Air Conditioning/ Refrigeration I, II	11-12	1-3
Air Conditioning/ Refrigeration III, IV	11-12	2-3
Auto Body Repair I, II	11-12	1-3
Auto Body Repair III, IV	11-12	2-3
Automotive Technician I, II	11-12	1-3
Automotive Technician III, IV, V, VI	11-12	3
General Automotive Maintenance	11-12	1-3
G.M. Technician I, II	11-12	1-3
ABC Carpentry I, II	11-12	1-3
ABC Electrical I, II	11-12	1-3
ABC Instrumentation Control Mechanic I, II	11-12	1-3
ABC Pipe Fitter I, II	11-12	1-3
ABC Welding Technology I, II	11-12	1-3
Masonry I, II	11-12	1-3
Cabinetmaking I, II	11-12	1-3
Carpentry I, II	11-12	1-3
Carpentry III, IV	11-12	2-3
Culinary Occupations I, II	11-12	1-3
Culinary Occupations III, IV	11-12	2-3
Custom Sewing I, II	11-12	1-3
Computer Electronics I, II	11-12	1-3
Computer Service Technology I, II	11-12	2-3
Commercial Art I, II	11-12	1-3
T & I Cooperative Education (TICE) I	11-12	1-3
T & I Cooperative Education (TICE) II	12	1-3
T & I Elective I	11-12	1-3
T & I Elective II	11-12	1-3
Cosmetology I, II	11-12	1-3
Cosmetology III, IV	11-12	2-3
Diesel Mechanics I, II	11-12	1-3
Diesel Mechanics III, IV	11-12	2-3
Drafting and Design Technology I, II	11-12	1-3
Drafting and Design Technology III, IV	11-12	2-3
Basic Electricity I, II	11-12	1-3
Electronics I, II	11-12	1-3
Industrial Electronics I, II	11-12	1-3
Electrician I, II	11-12	1-3
Electrician III, IV	11-12	2-3
Graphic Arts I, II	11-12	1-3
Graphic Arts III, IV	11-12	2-3
Horticulture I, II	11-12	1-3
Industrial Engines I, II	11-12	1-3
Laboratory Technology I, II	11-12	1-3
Industrial Machine Shop I, II	11-12	1-3
Industrial Machine Shop III, IV	11-12	2-3
Marine Operations I, II	11-12	1-3
Photography I, II	11-12	1-3
Networking Basics	10-12	2-3

Course Title(s)	Recommended Grade Level	Units
Routers and Routing Basics	10-12	2-3
Switching Basics & Intermediate Routing	11-12	2-3
WAN Technologies	11-12	2-3
Plumbing I, II	11-12	1-3
Printing I, II	11-12	1-3
Sheet Metal I, II	11-12	1-3
Outdoor Power Equipment Technician I, II	11-12	1-3
Outdoor Power Equipment Technician III, IV	11-12	2-3
Television Production I, II	11-12	1-3
Upholstery I, II	11-12	1-3
Welding I, II	11-12	1-3
Welding III, IV	11-12	2-3

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 32:1415 (August 2006), LR 33:1615 (August 2007), LR 34:2558 (December 2008).

Amy B. Westbrook, Ph.D.  
Executive Director

0812#053

## RULE

### Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.903 and 911)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §903. Definitions and §911. Procedures and Rules for Issuance or Reinstatement of Certificates Suspended or Revoked Due to Criminal Convictions and/or Submission of Fraudulent Documents. This revision will indicate that a Louisiana certificate can be suspended, revoked, and/or denied if an applicant has committed any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever including the two additional crimes of R.S. 14:283.1, Voyeurism, and R.S. 14:284. Peeping Tom.

## Title 28 EDUCATION

### Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel Chapter 9. Actions Related to Criminal Offenses and/or the Submission of Fraudulent Documentation

#### §903. Definitions

A. ...

B. The following crimes are reported under R.S.15:587.1:

1. R.S. 14:283.1, R.S. 14:284, R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 4:89.1, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A),

R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses;

2. those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and Those under the *Federal Criminal Code* having analogous elements of criminal and moral turpitude. (Federal Criminal Code provisions are in Title 18 of U.S.C.A.) Specifically:

R.S. 14:283.1	Voyeurism
R.S. 14:282	Peeping Tom
*R.S. 14:30	First degree murder
*R.S. 14:30.1	Second degree murder
R.S. 14:31	Manslaughter
*R.S. 14:41	Rape
*R.S. 14:42	Aggravated rape
*R.S. 14:42.1	Forcible rape
*R.S. 14:43	Simple rape
*R.S. 14:43.1	Sexual battery
*R.S. 14:43.2	Aggravated sexual battery
*R.S. 14:43.3	Oral sexual battery
*R.S. 14:43.4	Aggravated oral sexual battery
*R.S. 14:43.5	Intentional exposure to the AIDS virus
*R.S. 14:44	Aggravated kidnapping
*R.S. 14:44.1	Second degree kidnapping
*R.S. 14:45	Simple kidnapping
R.S. 14:74	Criminal neglect of family
*R.S. 14:78	Incest
*R.S. 14:79.1	Criminal abandonment
*R.S. 14:80	Carnal knowledge of a juvenile
*R.S. 14:81	Indecent behavior with a juvenile
*R.S. 14:81.1	Pornography involving juveniles
*R.S. 14:81.2	Molestation of a juvenile
R.S. 14:82	Prostitution
*R.S. 14:82.1	Prostitution; Persons under seventeen; Additional offenses
R.S. 14:83	Soliciting for prostitutes
R.S. 14:83.1	Inciting prostitution
R.S. 14:83.2	Promoting prostitution
R.S. 14:83.3	Prostitution by massage
R.S. 14:83.4	Massage; sexual content prohibited
R.S. 14:84	Pandering
R.S. 14:85	Letting premises for prostitution
R.S. 14:85.1	Letting premises for obscenity
*R.S. 14:86	Enticing persons into prostitution
*R.S. 14:89	Crime against nature
*R.S. 14:89.1	Aggravated crime against nature
R.S. 14:92	Contributing to the delinquency of juveniles
*R.S. 14:93	Cruelty to juveniles
*R.S. 14:93.2.1	Child desertion
R.S. 14:93.3	Cruelty to the infirm
R.S. 14:106	Obscenity
R.S. 14:282	Operation of places of prostitution
*R.S. 14:286	Sale of minor children
R.S. 40:966(A)	Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; Distribution
R.S. 40:967(A)	Prohibited acts; Schedule II; penalties; Manufacture; Distribution
R.S. 40:968(A)	Prohibited acts; Schedule III; penalties; Manufacture; Distribution
R.S. 40:969(A)	Prohibited acts; Schedule IV; penalties; Manufacture; Distribution
R.S. 40:970(A)	Prohibited acts; Schedule V; penalties; Manufacture; Distribution

\*Certificate issuance/reinstatement will never be considered for crimes marked with an asterisk.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1850 (October 2006), amended LR 34:2559 (December 2008).

**§911. Procedures and Rules for Issuance or Reinstatement of Certificates Suspended or Revoked due to Criminal Convictions and/or Submission of Fraudulent Documents**

A. Issuance/reinstatement will never be considered for teachers convicted of the following crimes: 14:283.1, 14:284, 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:82.1, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286.

B. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1831 (October 2006), amended LR 34:2560 (December 2008).

Amy B. Westbrook, Ph.D.  
Executive Director

0812#054

**RULE**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division**

**Asbestos and Lead Fees (LAC 33:III.223)(AQ282)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.223 (Log #AQ282).

This Rule promulgates language consistent with department policy, clarifies language for applicants, applies consistency within the asbestos and lead programs, and allows processing time for an increase in the number of persons applying for accreditation and for the entering of required information into the department's mainframe database by a support group. Fees have not been modified. The Rule clarifies existing language and promulgates existing department policy that certain fees are nontransferable and nonrefundable. Existing language that appeared confusing is clarified by the addition of the words "processing" or "application processing." Processing timeframes are changed for uniformity between the asbestos and lead programs for accreditations and training providers, and to allow for the entry of specific information by a support group into the Tools for Environmental Management and Protection Organizations (TEMPO) database, the LDEQ main database that maintains and validates basic information for all personnel and companies. The basis and rationale for this Rule are to clarify the intent of the regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding

environmental/health benefits and social/economic costs is required.

**Title 33  
ENVIRONMENTAL QUALITY  
Part III. Air**

**Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs**

**§223. Fee Schedule Listing**

Table 1. ...

Table 2		
Additional Fees		
Fee Number	Fee Description	Amount
* * *		
[See Prior Text in Fee Numbers 2000–2015]		
2020	The Issuance of an Asbestos Disposal Verification Form (ADVF)—(at least 10 working days notification given)—Fee is nontransferable and nonrefundable.	66.00
2030	The Issuance of an Asbestos Disposal Verification Form (ADVF)—(less than 10 working days notification given)—Fee is nontransferable and nonrefundable.	99.00
2040	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer—Normal Application Processing per Discipline (greater than five working days after receipt of required documentation and fees)—Fee is nontransferable and nonrefundable.	264.00
2050	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer—Emergency Application Processing per Discipline (less than or equal to five working days after receipt of required documentation and fees)—Fee is nontransferable and nonrefundable.	396.00
2060	Worker Accreditation for Asbestos—Normal Application Processing (greater than five working days after receipt of required documentation and fees)—Fee is nontransferable and nonrefundable.	66.00
2070	Worker Accreditation for Asbestos—Emergency Application Processing (less than or equal to five working days after receipt of required documentation and fees)—Fee is nontransferable and nonrefundable.	99.00
2080	Duplicate Certificate—Fee is nontransferable and nonrefundable.	33.00
2090	Asbestos Training Organization Recognition Plus Trainer Recognition per Trainer—Normal Application Processing (greater than five working days after receipt of required documentation and fees)—Fee is nontransferable and nonrefundable.	396.00 66.00
2100	Asbestos Training Organization Recognition Plus Trainer Recognition per Trainer—Emergency Application Processing (less than or equal to five working days after receipt of required documentation and fees)—Fee is nontransferable and nonrefundable.	594.00 99.00
* * *		
[See Prior Text in Fee Numbers 2200–2810]		
2900 *Note 19*	Lead Contractor License Evaluation Processing Fee—Fee is nontransferable and nonrefundable.	500.00
2901 *Note 19*	Lead Project Supervisor Accreditation Application Processing Fee—Fee is nontransferable and nonrefundable.	250.00
2902 *Note 19*	Lead Project Designer Accreditation Application Processing Fee—Fee is nontransferable and nonrefundable.	500.00

Table 2 Additional Fees		
Fee Number	Fee Description	Amount
2903 *Note 19*	Lead Risk Assessor Accreditation Application Processing Fee—Fee is nontransferable and nonrefundable.	250.00
2904 *Note 19*	Lead Inspector Accreditation Application Processing Fee—Fee is nontransferable and nonrefundable.	150.00
2905 *Note 19*	Lead Worker Accreditation Application Processing Fee—Fee is nontransferable and nonrefundable.	50.00
2906 *Note 19*	Recognition Application Processing Fee for In-State Louisiana Lead Training Organizations per Training Organization—Fee is nontransferable and nonrefundable.	500.00
2907 *Note 19*	Recognition Application Processing Fee for Louisiana Lead Training Organizations per Instructor—Fee is nontransferable and nonrefundable.	50.00
2908 *Note 19*	Recognition Application Processing Fee for Out of State Lead Training Organizations per Out of State Training Organization—Fee is nontransferable and nonrefundable.	750.00
2909 *Note 19*	Recognition Application Processing Fee for Out of State Lead Training Organizations per Instructor—Fee is nontransferable and nonrefundable.	100.00
2910 *Note 19*	Lead Abatement Project Notification Processing Fee, 2000 Square Feet and under—Fee is nontransferable and nonrefundable.	200.00
2911 *Note 19*	Lead Abatement Project Notification Processing Fee for Each Additional Increment of 2000 Square Feet or Portion Thereof—Fee is nontransferable and nonrefundable.	100.00
2912 *Note 19*	Lead Abatement Project Notification Processing Fee (Fee Per Revision)—Fee is nontransferable and nonrefundable.	50.00
2913 *Note 19*	Soil Lead Abatement Project Notification Processing Fee, Half Acre or Less—Fee is nontransferable and nonrefundable.	200.00
2914 *Note 19*	Soil Lead Abatement Project Notification Processing Fee, Each Additional Half Acre or Portion Thereof—Fee is nontransferable and nonrefundable.	100.00

Explanatory Notes for Fee Schedule

Note 1. – Note 18. ...

Note 19. The fee for emergency processing will be 1.5 times the regular fees.

Processing Timelines		
Notification or Application	Normal Processing	Emergency Processing
Lead Contractors' "Letter of Approval"	30 days	Notification to be processed less than or equal to five working days after receipt of required documentation and fees

Note 20. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 2341, and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496, 1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:672 (May 2003), LR 29:2042 (October 2003), LR 30:1475 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2620 (December 2007), LR 34:2560 (December 2008).

Herman Robinson, CPM  
Executive Counsel

0812#070

**RULE**

**Office of the Governor  
Board of Certified Public Accountants**

Continuing Professional Education (CPE)  
(LAC 46:XIX.1305 and 1309)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and of the Louisiana Accountancy Act, R.S. 37:74, the Board of Certified Public Accountants of Louisiana has amended LAC 46:XIX:1305 and 1309. The objective of this action is to update the descriptions and allowance of credit for individual self-study continuing professional education. No preamble has been prepared with respect to the revised Rule which appears below.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XIX. Certified Public Accountants  
Chapter 13. Maintenance of Competency; Continuing  
Professional Education (CPE)**

**§1305. Programs Which Qualify**

A. - B.3. ...

C. The following are deemed to be qualifying programs:

Processing Timelines		
Notification or Application	Normal Processing	Emergency Processing
Asbestos and Lead Training Organizations' and Trainers' Recognition	30 days	Application to be processed less than or equal to five working days after receipt of required documentation and fees
Asbestos and Lead Accreditation	30 days	Application to be processed less than or equal to five working days after receipt of required documentation and fees
Asbestos Demolition and Renovation Notification	Notification to be processed less than or equal to 10 working days after receipt or postmark of required documentation and fees	Notification to be processed less than or equal to 10 working days after receipt or postmark of required documentation and fees

1. accredited university or college courses (see definition at §501). Credit and non-credit courses earn continuing education credit as set forth in §1309.A;

2. formal correspondence or other individual study programs designed to permit a participant to learn a given subject without major involvement of an instructor, which require registration and provide evidence of satisfactory completion as set forth in §1309.B;

3. formal group programs designed to permit a participant to learn a given subject through live interaction with an instructor and other participants either in a classroom, conference setting, or by use of the Internet or other technological methods that allow for verification of registration, interaction, and attendance during the presentation;

4. technical sessions at meetings of recognized national and state professional organizations and their chapters;

5. formal organized in-firm educational programs.

D.-E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:5 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:614 (August 1989), LR 17:1068 (November 1991), LR 23:1116 (September 1997), LR 26:1977 (September 2000), LR 34:2561 (December 2008).

### §1309. Credit Hours Granted

A. - A.4. ...

B. Individual Study Program. The amount of credit to be allowed for correspondence and formal individual study programs is to be recommended by the program developer. These programs shall be pre-tested by the developer to determine the average completion time. Credit will be allowed in the period in which the course is completed as indicated on the certificate of completion.

1. Only interactive self-study programs shall receive CPE credit equal to the average completion time provided the course satisfies the following criteria.

a. An interactive self-study program is one which simulates a classroom learning process by providing ongoing responses and evaluation to the learner regarding his or her learning progress. These programs guide the learner through the learning process by:

i. requiring frequent student response to questions that test for understanding of the material presented;

ii. providing evaluative responses and comments to incorrectly answered questions; and

iii. providing reinforcement responses and comments to correctly answered questions.

b. Ongoing responses, comments, and evaluations communicate the appropriateness of a learner's response to a prompt or question. Such responses, comments, and evaluations must be frequent and provide guidance or direction for continued learning throughout the program by clarifying or explaining assessment of inappropriate responses, providing reinforcement for appropriate responses, and directing the learner to move ahead or review relevant material. It is the response of the learner that primarily guides the learning process in an interactive self-

study program. Not all technology based self-study programs constitute interactive programs. Technology based self-study programs must meet the criteria set forth in the definition of interactive self-study programs, as must other self-study programs developed using different modes of delivery.

2. Courses developed by or registered with the AICPA, NASBA, or a state society of CPAs are acceptable as continuing education provided that the developer or sponsor confirms to participants that the course is interactive self-study.

3. CPE program developers shall keep appropriate records of how the average completion time of self-study programs was determined.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated as LR 6:5 (January 1980), amended LR 11:757 (August 1985), LR 13:13 (January 1987), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:615 (August 1989), LR 17:1068 (November 1991), LR 23:1117 (September 1997), LR 26:1978 (September 2000), LR 34:2562 (December 2008).

Michael A. Henderson  
Executive Director

0812#047

### RULE

#### Office of the Governor Division of Administration Office of Group Benefits

PPO and EPO Plans of Benefits  
Eligible Expenses  
(LAC 32:III:301, V:301)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO and EPO Plan Documents regarding eligible expenses for surgical pressure support hose and ortho-mammary surgical brassieres to increase the maximum allowable to three (3) per plan year.

Accordingly, OGB adopts the following Rule to become effective January 1, 2009.

### Title 32

#### EMPLOYEE BENEFITS

##### Part III. Preferred Provider (PPO) Plan of Benefits

##### Chapter 3. Medical Benefits

##### §301. Eligible Expenses

A. - A.15. ...

16. surgical pressure support hose, maximum three pairs per plan year;

17. ortho-mammary surgical brassieres, maximum three per plan year;

18. - 35.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1830 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002), LR 29:339, 343 (March 2003), LR 30:1192 (June 2004), LR 31:441 (February 2005), LR 32:1888 (October 2006), LR 32:1898 (October 2006), LR 34:646 (April 2008), LR 34:646, 649 (April 2008), effective May 1, 2008, LR 34:2562 (December 2008), effective January 2008.

**Part V. Exclusive Provider Organization (EPO)  
Plan of Benefits**

**Chapter 3. Medical Benefits**

**§301. Eligible Expenses**

A. - A.15. ...

16. surgical pressure support hose, maximum three pairs per plan year;

17. ortho-mammary surgical brassieres, maximum three per plan year;

18. - 35.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees, State Employees Group Benefits Program, LR 25:1810 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:478 (March 2002), LR 29:334, 338 (March 2003), LR 30:1190 (June 2004), LR 31:440 (February 2005), LR 32:1860 (October 2006), LR 32:1898 (October 2006), LR 34:646 (April 2008), LR 34:647 (April 2008), effective May 1, 2008, LR 34:2563 (December 2008), effective January 2008.

Tommy D. Teague  
Chief Executive Officer

0812#073

**RULE**

**Office of the Governor  
Office of Financial Institutions**

Residential Mortgage Lending Act  
Expired License Reinstatement Procedure  
(LAC 10:XII.301)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., R.S. 6:121, and the Residential Mortgage Lending Act, ("RMLA") R.S. 6:1081 et seq., particularly R.S. 6:1085, R.S. 6:1087, and R.S. 6:1088.1, the Office of Financial Institutions hereby amends LAC 10:XII:301, to update and clarify procedures regarding expired license reinstatement for mortgage lenders, brokers, and originators, under the RMLA in order that said procedures may comport with and accommodate the utilization of the online Nationwide Mortgage Licensing System and Registry. The proposed amendment extends the date for residential mortgage licensees to request reinstatement of their licenses from on or before January 15 to before March 1, clarifies the method by which such

request is properly submitted, and removes the payment of the reinstatement penalty from the rule because it is already contained in R.S. 6:1088(F)(4). This Rule is being amended to further effectuate the purpose, administration, and enforcement of the RMLA.

**Title 10**

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,  
INVESTMENT SECURITIES AND UCC**

**Part XII. Residential Mortgage Lending Act**

**Chapter 3. Residential Mortgage Lending Licenses**

**§301. Expired License Reinstatement Procedure**

A. Any license deemed to have expired automatically on January 1, pursuant to R.S. 6:1088(F)(4), shall not be eligible for reinstatement of said license, unless the request is received by the Office of Financial Institutions via submission to the Nationwide Mortgage Licensing System and Registry before March 1, of that year, and contains:

1. an electronic reinstatement request filed by the person named in the expired license, which contains such information as may be required by rule, or as the Commissioner of the Office of Financial Institutions (hereinafter referred to as "commissioner"), may direct;

2. evidence showing good cause for approval of a reinstatement request.

B. Any license deemed to have expired automatically on January 1, pursuant to R.S. 6:1088(F)(4), and as to which the requirements of Subsection A of this Section have not been met before March 1, of that year, shall remain expired, and shall not thereafter be eligible for reinstatement, however, an application for a new license may be filed, provided all the requirements for the filing of an application for a new license and of this Rule are met, and all required fees and penalties have been paid in full at the time of filing the application for a new license.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121 and R.S. 6:1085.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 31:2893 (November 2005), amended LR 34:2563 (December 2008).

John Ducrest  
Commissioner

0812#009

**RULE**

**Department of Health and Hospitals  
Board of Dentistry**

Dentistry Requirements, Licenses and Permits  
(LAC 46:XXXIII.306, 415, 419, 420, 706, 1709 and 1711)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry amends LAC 46:XXXIII.306, 415, 419, 420, 706, 1709, and 1711. No preamble has been prepared. There will be no family impact in regard to issues set forth in R.S. 49:972.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part. XXXIII. Dental Health Profession**

**Chapter 3. Dentists**

**§306. Requirements of Applicants for Licensure by Credentials**

A. - A.4. ...

5. has never been convicted of a felony or a misdemeanor involving moral turpitude including, but not limited to, driving while under the influence of alcohol or drugs;

6. has no pending criminal charges against him/her;

7. has never been charged with and found guilty of or entered into a consent agreement with any state board of dentistry to any charge affecting his ability to practice dentistry or showing evidence of unprofessional conduct;

8. has paid all costs and fees (nonrefundable);

9. has fully completed required application form with all supporting data and certification of competency and good character;

10. if deemed necessary, has appeared for a personal interview before the board;

11. has submitted Drug Enforcement Administration registration certificate number and state narcotics license number in all states wherein same are held or have been held;

12. has submitted two recent passport type color photographs;

13. has all units of time accounted for;

14. has provided true copy of diploma(s) and/or national board examination grades;

15. has furnished three current letters of recommendation from professional associates, i.e., associations, boards, or prior employers listed on application for licensure on letterhead stationery from said organization;

16. possesses a current certificate in Cardiopulmonary Resuscitation Course "C", Basic Life Support for Health Care Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course;

17. is a citizen or permanent resident of the United States unless otherwise prohibited by the North American Free Trade Agreement;

18. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus, Hepatitis B Virus, and Hepatitis C Virus, and provide a notarized certificate of health from a medical doctor relative to his physical and mental condition; and

19. has completed continuing education equivalent to the state of Louisiana's for the two years prior to applying for licensure by credentials.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 28:1777 (August 2002), LR 30:2305 (October 2004), LR 31:927 (April 2005), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 33:2652 (December 2007), LR 34:2564 (December 2008).

**Chapter 4. Fees and Costs**  
**Subchapter C. Fees for Dentists**

**§415. Licenses, Permits, and Examinations (Dentists)**

A. - A.3. ...

4. Biennial renewal fee for dental license \$500

5. - 22. ...

23. Expungement of first-time advertising violation \$500

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1526 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:1778 (August 2002), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 34:2564 (December 2008).

**Subchapter D. Fees for Dental Hygienists**

**§419. Licenses, Permits and Examinations (Dental Hygienists)**

A. - A.2. ...

3. Biennial renewal fee for dental hygienist license \$200

4.-11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8) , R.S. 37:768, and R.S. 37:795.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1527 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:1778 (August 2002), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 34:2564 (December 2008).

**Subchapter E. Fees for Expanded Duty Dental Assistant**

**§420. Certificate Confirmation and Reconfirmation Fees**

A. For processing applications for certificate confirmations, the following fees shall be payable in advance to the board.

1. Initial certificate confirmation fee \$100

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:207 (February 1993), amended LR 34:2564 (December 2008).

**Chapter 7. Dental Hygienists**

**§706. Requirements of Applicants for Licensure by Credentials (Hygienists)**

A. - A.4. ...

5. has never been convicted of a felony or a misdemeanor involving moral turpitude including, but not limited to, driving while under the influence of alcohol or drugs;

6. has no pending criminal charges against him/her;

7. has never been charged with and found guilty of or entered into a consent decree with any state board of dentistry within the previous five years before applying for licensure by credentials to any charge affecting his/her ability to practice dental hygiene or showing evidence of unprofessional conduct;

8. has paid all costs and fees (nonrefundable);

9. has fully completed required application form with all supporting data and certification of competency and good character;

10. if deemed necessary, has appeared for a personal interview before the board;

11. has submitted two recent passport type color photographs;

12. has all units of time accounted for;

13. has provided true copy of diploma(s) and/or national board examination grades and transcript of dental hygiene school grades;

14. has furnished three current letters of recommendation from professional associates, i.e., associations, boards, or prior employers listed on application for licensure on letterhead stationery from said organization;

15. possesses a current certificate in Cardiopulmonary Resuscitation Course "C", Basic Life Support for Health Care Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course;

16. is a citizen or permanent resident of the United States unless otherwise prohibited by the North American Free Trade Agreement;

17. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus, Hepatitis B Virus, and Hepatitis C Virus, and provide a notarized certificate of health from a medical doctor relative to his/her physical and mental condition;

18. has completed continuing education equivalent to the state of Louisiana's for the two years prior to applying for licensure by credentials.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R. S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (July 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 24:1117 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:1613 (August 2000), repromulgated LR 27:1894 (November 2001), amended LR 28:1778 (August 2002), LR 33:846 (May 2007); LR 33:2652 (December 2007), LR 34:2564 (December 2008).

#### **§1709. Examination of Dentists**

A. - B.4 ...

C. To be licensed as a dentist in this state, an applicant must successfully complete the clinical licensing examination as administered by the Council of Interstate Testing Agencies (CITA), Central Regional Dental Testing Service (CRDTS), Northeast Regional Board (NERB), Southern Regional Testing Agency (SRTA), or American Dental Examination (ADEX).

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:2513 (December 2002), LR 33:2654 (December 2007), LR 34:2565 (December 2008).

#### **§1711. Examination of Dental Hygienists**

A. - C.1. ...

2. a practical or clinical examination as administered by the Council of Interstate Testing Agencies (CITA), Central Regional Dental Testing Service (CRDTS), Northeast Regional Board (NERB), Southern Regional

Testing Agency (SRTA), or American Dental Examination (ADEX), which shall test the competency of the applicant's ability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:1779 (August 2002), LR 33:2654 (December 2007), LR 34:2565 (December 2008).

C. Barry Ogden  
Executive Director

0812#006

### **RULE**

#### **Department of Health and Hospitals Office of Aging and Adult Services**

Home and Community Based Services Waivers  
Adult Day Health Care  
(LAC 50:XXI.Chapters 21-39)

Editor's Note: This Rule is being repromulgated because of an error upon submission. The original Rule can be viewed in its entirety on page 2161 of the October 20, 2008 *Louisiana Register*.

The Department of Health and Hospitals, Office of Aging and Adult Services has amended LAC 50:XXI.Chapters 21-39 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

### **Title 50**

#### **PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers**

##### **Subpart 3. Adult Day Health Care**

##### **Chapter 21. General Provisions**

##### **§2101. Introduction**

A. These standards for participation specify the requirements of the Adult Day Health Care (ADHC) Waiver Program. The program is funded as a waived service under the provisions of Title XIX of the Social Security Act and is administrated by the Department of Health and Hospitals (DHH).

B. Waiver services are provided under the provisions of the approved waiver agreement between the Centers for Medicare and Medicaid Services (CMS) and the Louisiana Medicaid Program.

C. Any provider of services under the ADHC Waiver shall abide by and adhere to any federal or state laws, rules or any policy, procedures, or manuals issued by the department. Failure to do so may result in sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2034 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2161 (October 2008), repromulgated LR 34:2565 (December 2008).

### **§2103. Program Description**

A. An adult day health care waiver program expands the array of services available to individuals with functional impairments, and helps to bridge the gap between independence and institutional care by allowing them to remain in their own homes and communities. This program provides direct care for five or more hours a day (not to exceed five days per week) to individuals who have physical, mental or functional impairments.

B. The target population for the ADHC Waiver Program includes individuals who:

1. are 65 years old or older; or
2. 22 to 64 years old and with a disability according to Medicaid standards or the Social Security Administration's disability criteria; and
3. meet nursing facility level of care requirements.

C. The long-range goal for all adult day health care participants is the delay or prevention of long-term care facility placement. The more immediate goals of the adult day health care waiver are to:

1. promote the individual's maximum level of independence;
  - a. - f. Repealed.
2. maintain the individual's present level of functioning as long as possible, preventing or delaying further deterioration;
3. restore and rehabilitate the individual to the highest possible level of functioning;
4. provide support and education for families and other caregivers;
5. foster socialization and peer interaction; and
6. serve as an integral part of the community services network and the long-term care continuum of services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2034 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2161 (October 2008), repromulgated LR 34:2566 (December 2008).

### **§2105. Definitions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2035 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2256 (December 2006), repealed LR 34:2161 (October 2008), repromulgated LR 34:2566 (December 2008).

### **§2105. Request for Services Registry (Formerly §2107)**

A. The Department of Health and Hospitals is responsible for the Request for Services Registry, hereafter referred to as "the registry", for the adult day health care waiver. An individual who wishes to have his or her name placed on the registry shall contact a toll free telephone number which shall be maintained by the department.

B. Individuals who desire their name to be placed on the ADHC Waiver registry shall be screened by the department, or its designee, to determine whether they meet nursing facility level of care. Only individuals who meet this criterion will be added to the registry.

C. - D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2035 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2256 (December 2006), LR 34:2161 (October 2008), repromulgated LR 34:2566 (December 2008).

### **§2107. Programmatic Allocation of Waiver Opportunities**

A. When funding is appropriated for a new ADHC Waiver opportunity or an existing opportunity is vacated, the department shall send a written notice to an individual on the registry indicating that a waiver opportunity is available. That individual shall be evaluated for a possible ADHC Waiver opportunity assignment.

B. Adult day health care waiver opportunities shall be offered based upon the date of first request for services, with priority given to individuals who are in nursing facilities but could return to their home if ADHC Waiver services are provided. Priority shall also be given to those individuals who have indicated that they are at imminent risk of nursing facility placement.

1. A person is considered to be at imminent risk of nursing facility placement when he:

- a. is likely to require admission to a nursing facility within the next 120 days;
- b. faces a substantial possibility of deterioration in mental condition, physical condition or functioning if either home and community-based services or nursing facility services are not provided within 120 days; or
- c. has a primary caregiver who has a disability or is age 70 or older.

C. Remaining waiver opportunities, if any, shall be offered on a first-come, first-serve basis to individuals who qualify for nursing facility level of care, but who are not at imminent risk of nursing facility placement.

D. If an applicant is determined to be ineligible for any reason, the next individual on the registry is notified and the process continues until an individual is determined eligible. An ADHC Waiver opportunity is assigned to an individual when eligibility is established and the individual is certified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2162 (October 2008), repromulgated LR 34:2566 (December 2008).

## **Chapter 23. Services**

### **§2301. Covered Services**

A. The following services are available to recipients in the ADHC Waiver. All services must be provided in accordance with the approved comprehensive plan of care (CPOC). No services shall be provided until the CPOC has been approved.

1. Adult Day Health Care. ADHC services are a planned, diverse daily program of individual services and group activities structured to enhance the recipient's physical functioning and to provide mental stimulation. Services are furnished for five or more hours per day (exclusive of transportation time to and from the ADHC center) on a regularly scheduled basis for one or more days per week (not to exceed five days per week), or as specified in the

individualized service plan. An adult day health care center shall, at a minimum, furnish the following services:

- a. individualized training or assistance with the activities of daily living (toileting, grooming, eating, ambulation, etc.);
- b. health and nutrition counseling;
- c. an individualized, daily exercise program;
- d. an individualized, goal directed recreation program;
- e. daily health education;
- f. medical care management;
- g. one nutritionally-balanced hot meal and two snacks served each day;
- h. nursing services that include the following individualized health services;
  - i. monitoring vital signs appropriate to the diagnosis and medication regimen of each recipient no less frequently than monthly;
  - ii. administering medications and treatments in accordance with physicians' orders;
  - iii. monitoring self-administration of medications while the recipient is at the ADHC center;

NOTE: All nursing services shall be provided in accordance with acceptable professional practice standards.

- i. transportation to and from the center at the beginning and end of the program day; and
- j. transportation to and from medical and social activities when the participant is accompanied by center staff;

NOTE: If transportation services that are prescribed in any individual's approved ISP are not provided by the ADHC center, the center's reimbursement rate shall be reduced accordingly.

2. **Support Coordination.** These services assist participants in gaining access to necessary waiver and other State Plan services, as well as medical, social, educational and other services, regardless of the funding source for these services. This is a mandatory service.

3. **Transition Intensive Support Coordination.** These services will assist participants currently residing in nursing facilities who want to transition into the community. These services assist participants in gaining access to needed medical, social, educational and other services, regardless of the funding source for these services.

4. **Transition Service.** These services that will assist an individual transition from a nursing facility to a living arrangement in a private residence where the individual is directly responsible for his/her own living expenses.

5. **Other Services.** ADHC providers may provide other services and activities as identified in the current ADHC provider manual that enhance the participant's independence and community involvement.

B. An individual must require and maintain the need for two waiver services.

C. - I.5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2036 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2162 (October 2008), repromulgated LR 34:2566 (December 2008).

### §2303. Individualized Service Plan

A. All ADHC services shall:

1. be provided according to the individualized service plan;
2. be a result of an interdisciplinary staffing in which the participant and direct care staff participate;
3. be written in terminology which all center personnel can understand;
4. list the identified problems and needs of the participant for which intervention is indicated as identified in assessments, progress notes and medical reports;
5. propose a reasonable, measurable short-term goal for each problem/need;
6. contain the necessary elements of the center's self administration of medication plan, if applicable;
7. use the strengths of the participant in developing approaches to problems;
8. specify the approaches to be used for each problem and that each approach is appropriate to effect positive change for that problem;
9. identify the staff member responsible for carrying out each approach;
10. project the resolution date or review date for each problem;
11. specify the frequency of each approach/service;
12. contain a sufficient explanation of why the participant would require 24-hour care were he/she not receiving ADHC services;
  - a. - b. Repealed.
13. include the number of days and time of scheduled attendance each week;
14. include discharge as a goal; and
15. be kept in the participant's record used by direct care staff.

A.16 - D.12. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2036 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2162 (October 2008), repromulgated LR 34:2567 (December 2008).

### §2305. Medical Certification Application Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2038 (September 2004), repromulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2257 (December 2006), repealed LR 34:2163 (October 2008), repromulgated LR 34:2567 (December 2008).

### §2307. Interdisciplinary Team

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2039 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2163 (October 2008), repromulgated LR 34:2567 (December 2008).

### **§2309. Interdisciplinary Team Assessments**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2039 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2257 (December 2006), repealed LR 34:2163 (October 2008), repromulgated LR 34:2568 (December 2008).

### **§2311. Staffings**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2040 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2163 (October 2008), repromulgated LR 34:2568 (December 2008).

### **§2313. Plan of Care**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2040 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2163 (October 2008), repromulgated LR 34:2568 (December 2008).

### **§2315. Progress Notes**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2040 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2163 (October 2008), repromulgated LR 34:2568 (December 2008).

## **Chapter 25. Admission and Discharge Criteria**

### **§2501. Admission Criteria**

A. Admission to the ADHC Waiver Program shall be determined in accordance with the following criteria:

1. initial and continued Medicaid financial eligibility;
2. initial and continued eligibility for a nursing facility level of care;
3. justification, as documented in the approved CPOC, that the ADHC Waiver services are appropriate, cost-effective and represent the least restrictive environment for the individual; and
4. assurance that the health, safety and welfare of the individual can be maintained in the community with the provision of ADHC Waiver services.

B. Failure of the individual to cooperate in the eligibility determination process or to meet any of the criteria in §2501.A above will result in denial of admission to the ADHC Waiver.

C. - D.13. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2040 (September 2004), amended by the Department Of Hospitals, Office of Aging and Adult Services,

LR 34:2163 (October 2008), repromulgated LR 34:2568 (December 2008).

### **§2503. Denial or Discharge Criteria**

A. Admission shall be denied or the recipient shall be discharged from the ADHC Waiver Program if any of the following conditions are determined.

1. The individual does not meet the criteria for Medicaid financial eligibility.
2. The individual does not meet the criteria for a nursing facility level of care.
3. The recipient resides in another state or has a change of residence to another state.
4. Continuity of services is interrupted as a result of the recipient not receiving and/or refusing ADHC Waiver services (exclusive of support coordination services) for a period of 30 consecutive days.
5. The health, safety and welfare of the individual cannot be assured through the provision of ADHC Waiver services.
6. The individual fails to cooperate in the eligibility determination process or in the performance of the CPOC.
7. It is not cost effective to serve the individual in the ADHC Waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2163 (October 2008), repromulgated LR 34:2568 (December 2008).

## **Chapter 27. Provider Participation**

### **§2701. General Provisions**

A. Each adult day health care center shall enter into a provider agreement with the department to provide services which may be reimbursed by the Medicaid program, and shall agree to comply with the provisions of this Rule.

B. The provider agrees to not request payment unless the participant for whom payment is requested is receiving services in accordance with the ADHC Waiver program provisions.

C. ADHC providers shall ensure that all non-licensed direct care staff meet the minimum mandatory qualifications and requirements for direct service workers as required by R.S. 40:2179-2179.1 and be registered on the Louisiana Direct Service Worker Registry.

D. - G. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2041 (September 2004), amended by the Department of Health and Hospitals, Office for Aging and Adult Services, LR 34:2164 (October 2008), repromulgated LR 34:2568 (December 2008).

### **§2703. Reporting Requirements**

A. Support coordinators and direct service providers, including ADHC providers, are obligated to report changes to the department that could affect the waiver recipient's eligibility including, but not limited to, those changes cited in the denial or discharge criteria.

B. Support coordinators and direct service providers, including ADHC providers, are responsible for documenting the occurrence of incidents or accidents that affect the health, safety and welfare of the recipient and completing an

incident report. The incident report shall be submitted to the department with the specified requirements.

C. Support coordinators shall provide the participant's approved comprehensive plan of care to the ADHC provider in a timely manner.

D. ADHC providers shall provide the participant's approved individualized service plan to the support coordinator in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2164 (October 2008), repromulgated LR 34:2568 (December 2008).

## **Chapter 29. Reimbursement**

### **§2901. General Provisions**

A. Development. Adult Day Health Care providers shall be reimbursed a per diem rate for services provided under a prospective payment system (PPS). The system shall be designed in a manner that recognizes and reflects the cost of direct care services provided. The reimbursement methodology is designed to improve the quality of care for all adult day health care waiver recipients by ensuring that direct care services are provided at an acceptable level while fairly reimbursing the providers.

B. Reimbursement shall not be made for ADHC Waiver services provided prior to the department's approval of the CPOC.

C. - E.1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2041 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2257 (December 2006), LR 34:2164 (October 2008), repromulgated LR 34:2569 (December 2008).

### **§2903. Cost Reporting**

#### **A. Cost Centers Components**

1. Direct Care Costs. This component reimburses for in-house and contractual direct care staffing and fringe benefits and direct care supplies.

2. Care Related Costs. This component reimburses for in-house and contractual salaries and fringe benefits for activity and social services staff, raw food costs and care related supplies for activities and social services.

3. Administrative and Operating Costs. This component reimburses for in-house or contractual salaries and related benefits for administrative, dietary, housekeeping and maintenance staff. Also included are:

- a. utilities;
- b. accounting;
- c. dietary;
- d. housekeeping and maintenance supplies; and
- e. all other administrative and operating type expenditures.

4. Property. This component reimburses for depreciation, interest on capital assets, lease expenses, property taxes and other expenses related to capital assets.

B. Providers of ADHC services are required to file acceptable annual cost reports of all reasonable and allowable costs. An acceptable cost report is one that is prepared in accordance with the requirements of this Section and for which the provider has supporting documentation

necessary for completion of a desk review or audit. The annual cost reports are the basis for determining reimbursement rates. A copy of all reports and statistical data must be retained by the center for no less than five years following the date reports are submitted to the bureau. A chart of accounts and an accounting system on the accrual basis or converted to the accrual basis at year end are required in the cost report preparation process. The bureau or its designee will perform desk reviews of the cost reports. In addition to the desk review, a representative number of the facilities shall be subject to a full-scope, annual on-site audit. All ADHC cost reports shall be filed with a fiscal year from July 1 through June 30.

C. The cost reporting forms and instructions developed by the bureau must be used by all ADHC facilities participating in the Louisiana Medicaid Program. Hospital based and other provider based ADHC which use Medicare forms for step down in completing their ADHC Medicaid cost reports must submit copies of the applicable Medicare cost report forms also. All amounts must be rounded to the nearest dollar and must foot and cross foot. Only per diem cost amounts will not be rounded. Cost reports submitted that have not been rounded in accordance with this policy will be returned and will not be considered as received until they are resubmitted.

D. Annual Reporting. Cost reports are to be filed on or before the last day of September following the close of the reporting period. Should the due date fall on a Saturday, Sunday, or an official state or federal holiday, the due date shall be the following business day. The cost report forms and schedules must be filed in duplicate together with two copies of the following documents:

1. a working trial balance that includes the appropriate cost report line numbers to which each account can be traced. This may be done by writing the cost report category and line numbers by each ending balance or by running a trial balance in cost report category and line number order that totals the account;
2. a depreciation schedule. The depreciation schedule which reconciles to the depreciation expense reported on the cost report must be submitted. If the center files a home office cost report, copies of the home office depreciation schedules must also be submitted with the home office cost report. All hospital based facilities must submit two copies of a depreciation schedule that clearly shows and totals assets that are hospital only, ADHC only and shared assets;
3. an amortization schedule(s), if applicable;
4. a schedule of adjustment and reclassification entries;
5. a narrative description of purchased management services and a copy of contracts for managed services, if applicable;
6. For management services provided by a related party or home office, a description of the basis used to allocate the costs to providers in the group and to non-provider activities and copies of the cost allocation worksheet, if applicable. Costs included that are for related management/home office costs must also be reported on a separate cost report that includes an allocation schedule; and
7. all allocation worksheets must be submitted by hospital-based facilities. The Medicare worksheets that must

be attached by facilities using the Medicare forms for allocation are:

- a. A;
- b. A-6;
- c. A-7 parts I, II and III;
- d. A-8;
- e. A-8-1;
- f. B part 1; and
- g. B-1.

E. Each copy of the cost report must have the original signatures of an officer or center administrator on the certification. The cost report and related documents must be submitted to the address indicated on the cost report instruction form. In order to avoid a penalty for delinquency, cost reports must be postmarked on or before the due date.

F. When it is determined, upon initial review for completeness, that an incomplete or improperly completed cost report has been submitted, the provider will be notified. The provider will be allowed a specified amount of time to submit the requested information without incurring the penalty for a delinquent cost report. For cost reports that are submitted by the due date, 10 working days from the date of the provider's receipt of the request for additional information will be allowed for the submission of the additional information. For cost reports that are submitted after the due date, five working days from the date of the provider's receipt of the request for additional information will be allowed for the submission of the additional information. An exception exists in the event that the due date comes after the specified number of days for submission of the requested information. In these cases, the provider will be allowed to submit the additional requested information on or before the due date of the cost report. If requested additional information has not been submitted by the specified date, a second request for the information will be made. Requested information not received after the second request may not be subsequently submitted and shall not be considered for reimbursement purposes. An appeal of the disallowance of the costs associated with the requested information may not be made. Allowable costs will be adjusted to disallow any expenses for which requested information is not submitted.

G. Accounting Basis. The cost report must be prepared on the accrual basis of accounting. If a center is on a cash basis, it will be necessary to convert from a cash basis to an accrual basis for cost reporting purposes. Particular attention must be given to an accurate accrual of all costs at the year-end for the equitable distribution of costs to the applicable period. Care must be given to the proper allocation of costs for contracts to the period covered by such contracts. Amounts earned although not actually received and amounts owed to creditors but not paid must be included in the reporting period.

H. Supporting Information. Providers are required to maintain adequate financial records and statistical data for proper determination of reimbursable costs. Financial and statistical records must be maintained by the center for five years from the date the cost report is submitted to the bureau. Cost information must be current, accurate and in sufficient detail to support amounts reported in the cost report. This includes all ledgers, journals, records, and original evidences of cost (canceled checks, purchase orders,

invoices, vouchers, inventories, time cards, payrolls, bases for apportioning costs, etc.) that pertain to the reported costs. Census data reported on the cost report must be supportable by daily census records. Such information must be adequate and available for auditing.

#### I. Employee Record

1. The provider shall retain written verification of hours worked by individual employees.

a. Records may be sign-in sheets or time cards, but shall indicate the date and hours worked.

b. Records shall include all employees even on a contractual or consultant basis.

2. Verification of criminal background check.

3. Verification of employee orientation and in-service training.

4. Verification of the employee's communicable disease screening.

#### J. Billing Records

1. The provider shall maintain billing records in accordance with recognized fiscal and accounting procedures. Individual records shall be maintained for each client. These records shall meet the following criteria.

a. Records shall clearly detail each charge and each payment made on behalf of the client.

b. Records shall be current and shall clearly reveal to whom charges were made and for whom payments were received.

c. Records shall itemize each billing entry.

d. Records shall show the amount of each payment received and the date received.

2. The provider shall maintain supporting fiscal documents and other records necessary to ensure that claims are made in accordance with federal and state requirements.

K. Non-Acceptable Descriptions. "Miscellaneous", "other" and "various", without further detailed explanation, are not acceptable descriptions for cost reporting purposes. If any of these are used as descriptions in the cost report, a request for information will not be made and the related line item expense will be automatically disallowed. The provider will not be allowed to submit the proper detail of the expense at a later date, and an appeal of the disallowance of the costs may not be made.

L. Exceptions. Limited exceptions to the cost report filing requirements will be considered on an individual provider basis upon written request from the provider to the Bureau of Health Services Financing, Rate and Audit Review Section. If an exception is allowed, the provider must attach a statement describing fully the nature of the exception for which prior written permission was requested and granted. Exceptions which may be allowed with written approval are as follows.

1. If the center has been purchased or established during the reporting period, a partial year cost report may be filed in lieu of the required 12-month report.

2. If the center experiences unavoidable difficulties in preparing the cost report by the prescribed due date, an extension may be requested prior to the due date. Requests for exception must contain a full statement of the cause of the difficulties that rendered timely preparation of the cost report impossible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2164 (October 2008), repromulgated LR 34:2569 (December 2008).

### **§2905. Cost Categories Included in the Cost Report**

#### **A. Direct Care (DC) Costs**

1. Salaries, Aides—gross salaries of certified nurse aides and nurse aides in training.
2. Salaries, LPNs—gross salaries of nonsupervisory licensed practical nurses and graduate practical nurses.
3. Salaries, RNs—gross salaries of nonsupervisory registered nurses and graduate nurses (excluding director of nursing and resident assessment instrument coordinator).
4. Salaries, Social Services—gross salaries of nonsupervisory licensed social services personnel providing medically needed social services to attain or maintain the highest practicable physical, mental, or psychosocial well being of the residents.
5. Salaries, Activities—gross salaries of nonsupervisory activities/recreational personnel providing an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interest and the physical, mental, and psychosocial well being of the residents.
6. Payroll Taxes—cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for direct care employees.
7. Group Insurance, DC—cost of employer's contribution to employee health, life, accident and disability insurance for direct care employees.
8. Pensions, DC—cost of employer's contribution to employee pensions for direct care employees.
9. Uniform Allowance, DC—employer's cost of uniform allowance and/or uniforms for direct care employees.
10. Worker's Comp, DC—cost of worker's compensation insurance for direct care employees.
11. Contract, Aides—cost of aides through contract that are not center employees.
12. Contract, LPNs—cost of LPNs and graduate practical nurses hired through contract that are not center employees.
13. Contract, RNs—cost of RNs and graduate nurses hired through contract that are not center employees.
14. Drugs, Over-the-Counter and Legend—cost of over-the-counter and legend drugs provided by the center to its residents. This is for drugs not covered by Medicaid.
15. Medical Supplies—cost of patient-specific items of medical supplies such as catheters, syringes and sterile dressings.
16. Medical Waste Disposal—cost of medical waste disposal including storage containers and disposal costs.
17. Other Supplies, DC—cost of items used in the direct care of residents which are not patient-specific such as recreational/activity supplies, prep supplies, alcohol pads, betadine solution in bulk, tongue depressors, cotton balls, thermometers, and blood pressure cuffs.
18. Allocated Costs, Hospital Based—the amount of costs that have been allocated through the step-down process from a hospital or state institution as direct care costs when those costs include allocated overhead.

19. Total Direct Care Costs—sum of the above line items.

#### **B. Care Related (CR) Costs**

1. Salaries—gross salaries for care related supervisory staff including supervisors or directors over nursing, social service and activities/recreation.
2. Salaries, Dietary—gross salaries of kitchen personnel including dietary supervisors, cooks, helpers and dishwashers.
3. Payroll Taxes—cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for care related employees.
4. Group Insurance, CR—cost of employer's contribution to employee health, life, accident and disability insurance for care related employees.
5. Pensions, CR—cost of employer's contribution to employee pensions for care related employees.
6. Uniform Allowance, CR—employer's cost of uniform allowance and/or uniforms for care related employees.
7. Worker's Comp, CR—cost of worker's compensation insurance for care related employees.
8. Barber and Beauty Expense—the cost of barber and beauty services provided to patients for which no charges are made.
9. Consultant Fees, Activities—fees paid to activities personnel, not on the center's payroll, for providing advisory and educational services to the center.
10. Consultant Fees, Nursing—fees paid to nursing personnel, not on the center's payroll, for providing advisory and educational services to the center.
11. Consultant Fees, Pharmacy—fees paid to a registered pharmacist, not on the center's payroll, for providing advisory and educational services to the center.
12. Consultant Fees, Social Worker—fees paid to a social worker, not on the center's payroll, for providing advisory and educational services to the center.
13. Consultant Fees, Therapists—fees paid to a licensed therapist, not on the center's payroll, for providing advisory and educational services to the center.
14. Food, Raw—cost of food products used to provide meals and snacks to residents. Hospital based facilities must allocate food based on the number of meals served.
15. Food, Supplements—cost of food products given in addition to normal meals and snacks under a doctor's orders. Hospital based facilities must allocate food-supplements based on the number of meals served.
16. Supplies, CR—the costs of supplies used for rendering care related services to the patients of the center. All personal care related items such as shampoo and soap administered by all staff must be included on this line.
17. Allocated Costs, Hospital Based—the amount of costs that have been allocated through the step-down process from a hospital or state institution as care related costs when those costs include allocated overhead.
18. Total Care Related Costs—the sum of the care related cost line items.
19. Contract, Dietary—cost of dietary services and personnel hired through contract that are not employees of the center.

C. Administrative and Operating Costs (AOC)

1. Salaries, Administrator—gross salary of administrators excluding owners. Hospital based facilities must attach a schedule of the administrator's salary before allocation, the allocation method, and the amount allocated to the nursing center.

2. Salaries, Assistant Administrator—gross salary of assistant administrators excluding owners.

3. Salaries, Housekeeping—gross salaries of housekeeping personnel including housekeeping supervisors, maids and janitors.

4. Salaries, Laundry—gross salaries of laundry personnel.

5. Salaries, Maintenance—gross salaries of personnel involved in operating and maintaining the physical plant, including maintenance personnel or plant engineers.

6. Salaries, Drivers—gross salaries of personnel involved in transporting clients to and from the center.

7. Salaries, Other Administrative—gross salaries of other administrative personnel including bookkeepers, receptionists, administrative assistants and other office and clerical personnel.

8. Salaries, Owner or Owner/Administrator—gross salaries of all owners of the center that are paid through the center.

9. Payroll Taxes—cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for administrative and operating employees.

10. Group Insurance, AOC—cost of employer's contribution to employee health, life, accident and disability insurance for administrative and operating employees.

11. Pensions, AOC—cost of employer's contribution to employee pensions for administration and operating employees.

12. Uniform Allowance, AOC—employer's cost of uniform allowance and/or uniforms for administration and operating employees.

13. Worker's Compensation, AOC—cost of worker's compensation insurance for administration and operating employees.

14. Contract, Housekeeping—cost of housekeeping services and personnel hired through contract that are not employees of the center.

15. Contract, Laundry—cost of laundry services and personnel hired through contract that are not employees of the center.

16. Contract, Maintenance—cost of maintenance services and persons hired through contract that are not employees of the center.

17. Consultant Fees, Dietician—fees paid to consulting registered dietitians.

18. Accounting Fees—fees incurred for the preparation of the cost report, audits of financial records, bookkeeping, tax return preparation of the adult day health care center and other related services excluding personal tax planning and personal tax return preparation.

19. Amortization Expense, Non-Capital—costs incurred for legal and other expenses when organizing a corporation must be amortized over a period of 60 months. Amortization of costs attributable to the negotiation or

settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are nonallowable costs. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

20. Bank Service Charges—fees paid to banks for service charges, excluding penalties and insufficient funds charges.

21. Dietary Supplies—costs of consumable items such as soap, detergent, napkins, paper cups, straws, etc., used in the dietary department.

22. Dues—dues to one organization are allowable.

23. Educational Seminars and Training—the registration cost for attending educational seminars and training by employees of the center and costs incurred in the provision of in-house training for center staff, excluding owners or administrative personnel.

24. Housekeeping Supplies—cost of consumable housekeeping items including waxes, cleaners, soap, brooms and lavatory supplies.

25. Insurance, Professional Liability and Other—includes the costs of insuring the center against injury and malpractice claims.

26. Interest Expense, Non-Capital and Vehicles—interest paid on short term borrowing for center operations.

27. Laundry Supplies—cost of consumable goods used in the laundry including soap, detergent, starch and bleach.

28. Legal Fees—only actual and reasonable attorney fees incurred for non-litigation legal services related to patient care are allowed.

29. Linen Supplies—cost of sheets, blankets, pillows, gowns, under-pads and diapers (reusable and disposable).

30. Miscellaneous—costs incurred in providing center services that cannot be assigned to any other line item on the cost report. Examples of miscellaneous expense are small equipment purchases, all employees' physicals and shots, nominal gifts to all employees, such as a turkey or ham at Christmas, allowable advertising, and flowers purchased for the enjoyment of the clients. Items reported on this line must be specifically identified.

31. Management Fees and Home Office Costs—the cost of purchased management services or home office costs incurred that are allocable to the provider. Costs included that are for related management/home office costs must also be reported on a separate cost report that includes an allocation schedule.

32. Nonemergency Medical Transportation—the cost of purchased nonemergency medical transportation services including, but not limited to, payments to employees for use of personal vehicle, ambulance companies and other transportation companies for transporting patients of the center.

33. Office Supplies and Subscriptions—cost of consumable goods used in the business office such as:

a. pencils, paper and computer supplies;

b. cost of printing forms and stationery including, but not limited to, nursing and medical forms, accounting and census forms, charge tickets, center letterhead and billing forms;

c. cost of subscribing to newspapers, magazines and periodicals.

34. Postage—cost of postage, including stamps, metered postage, freight charges and courier services.

35. Repairs and Maintenance—supplies and services, including electricians, plumbers, extended service agreements, etc., used to repair and maintain the center building, furniture and equipment except vehicles. This includes computer software maintenance.

36. Taxes and Licenses—the cost of taxes and licenses paid that are not included on any other line on Form 6. This includes tags for vehicles, licenses for center staff (including nurse aide re-certifications) and buildings.

37. Telephone and Communications—cost of telephone services, wats lines and fax services.

38. Travel—cost of travel (airfare, lodging, meals, etc.) by the administrator and other authorized personnel to attend professional and continuing educational seminars and meetings or to conduct center business. Commuting expenses and travel allowances are not allowable.

39. Vehicle Expenses—vehicle maintenance and supplies, including gas and oil.

40. Utilities—cost of water, sewer, gas, electric, cable TV and garbage collection services.

41. Allocated Costs, Hospital Based—costs that have been allocated through the step-down process from a hospital as administrative and operating costs.

42. Total Administrative and Operating Costs

**D. Property and Equipment**

1. Amortization Expense, Capital—legal and other costs incurred when financing the center must be amortized over the life of the mortgage. Amortization of goodwill is not an allowable cost. Amortization of costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are nonallowable costs. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

2. Depreciation—depreciation on the center's buildings, furniture, equipment, leasehold improvements and land improvements.

3. Interest Expense, Capital—interest paid or accrued on notes, mortgages, and other loans, the proceeds of which were used to purchase the center's land, buildings and/or furniture, equipment and vehicles.

4. Property Insurance—cost of fire and casualty insurance on center buildings, equipment and vehicles. Hospital-based facilities and state-owned facilities must allocate property insurance based on the number of square feet.

5. Property Taxes—taxes levied on the center's buildings, equipment and vehicles. Hospital-based facilities and state-owned facilities must allocate property insurance based on the number of square feet.

6. Rent, Building—cost of leasing the center's real property.

7. Rent, Furniture and Equipment—cost of leasing the center's furniture and equipment, excluding vehicles.

8. Lease, Automotive—cost of leases for vehicles used for patient care. A mileage log must be maintained. If a leased vehicle is used for both patient care and personal purposes, cost must be allocated based on the mileage log.

9. Allocated Costs, Hospital Based—costs that have been allocated through the step-down process from a hospital or state institution as property costs when those costs include allocated overhead.

**10. Total Property and Equipment.**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2166 (October 2008), repromulgated LR 34:2571 (December 2008).

**§2907. Allowable Costs**

A. Allowable costs include those costs incurred by providers to conform to state licensure and federal certification standards. General cost principles are applied during the desk review and audit process to determine allowable costs.

1. These general cost principles include determining whether the cost is:

a. ordinary, necessary, and related to the delivery of care;

b. what a prudent and cost conscious business person would pay for the specific goods or services in the open market or in an arm's length transaction; and

c. for goods or services actually provided to the center.

B. Through the desk review and/or audit process, adjustments and/or disallowances may be made to a provider's reported costs. The Medicare Provider Reimbursement Manual is the final authority for allowable costs unless the department has set a more restrictive policy.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2168 (October 2008), repromulgated LR 34:2573 (December 2008).

**§2909. Nonallowable Costs**

A. Costs that are not based on the reasonable cost of services covered under Medicare and are not related to the care of recipients are considered nonallowable costs.

B. Reasonable cost does not include the following:

1. costs not related to client care;

2. costs specifically not reimbursed under the program;

3. costs that flow from the provision of luxury items or services (items or services substantially in excess or more expensive than those generally considered necessary for the provision of the care);

4. costs that are found to be substantially out of line with other centers that are similar in size, scope of services and other relevant factors;

5. costs exceeding what a prudent and cost-conscious buyer would incur to purchase the goods or services.

C. General nonallowable costs:

1. services for which Medicaid recipients are charged a fee;

2. depreciation of non-client care assets;

3. services that are reimbursable by other state or federally funded programs;

4. goods or services unrelated to client care;

5. unreasonable costs.

D. Specific nonallowable costs (this is not an all inclusive listing):

1. advertising—costs of advertising to the general public that seeks to increase patient utilization of the ADHC center;
2. bad debts—accounts receivable that are written off as not collectible;
3. contributions—amounts donated to charitable or other organizations;
4. courtesy allowances;
5. director's fees;
6. educational costs for clients;
7. gifts;
8. goodwill or interest (debt service) on goodwill;
9. costs of income producing items such as fund raising costs, promotional advertising, or public relations costs and other income producing items;
10. income taxes, state and federal taxes on net income levied or expected to be levied by the federal or state government;
11. insurance, officers—cost of insurance on officers and key employees of the center when the insurance is not provided to all employees;
12. judgments or settlements of any kind;
13. lobbying costs or political contributions, either directly or through a trade organization;
14. non-client entertainment;
15. non-Medicaid related care costs—costs allocated to portions of a center that are not licensed as the reporting ADHC or are not certified to participate in Title XIX;
16. officers' life insurance with the center or owner as beneficiary;
17. payments to the parent organization or other related party;
18. penalties and sanctions—penalties and sanctions assessed by the Centers for Medicare and Medicaid Services, the Internal Revenue Service or the State Tax Commission; insufficient funds charges;
19. personal comfort items; and
20. personal use of vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2169 (October 2008), repromulgated LR 34:2573 (December 2008).

#### §2911. Audits

- A. Each provider shall file an annual center cost report and, if applicable, a central office cost report.
- B. The provider shall be subject to financial and compliance audits.
- C. All providers who elect to participate in the Medicaid program shall be subject to audit by state or federal regulators or their designees. Audit selection shall be at the discretion of the department.

1. The department conducts desk reviews of all of the cost reports received and also conducts on-site audits of provider cost reports.

2. The records necessary to verify information submitted to the department on Medicaid cost reports, including related-party transactions and other business activities engaged in by the provider, must be accessible to the department's audit staff.

D. In addition to the adjustments made during desk reviews and on-site audits, the department may exclude or adjust certain expenses in the cost report data base in order to base rates on the reasonable and necessary costs that an economical and efficient provider must incur.

E. The center shall retain such records or files as required by the department and shall have them available for inspection for five years from the date of service or until all audit exceptions are resolved, whichever period is longer.

F. If a center's audit results in repeat findings and adjustments, the department may:

1. withhold vendor payments until the center submits documentation that the non-compliance has been resolved;
2. exclude the provider's cost from the database used for rate setting purposes; and
3. impose civil monetary penalties until the center submits documentation that the non-compliance has been resolved.

G. If the department's auditors determine that a center's financial and/or census records are unauditible, the vendor payments may be withheld until the center submits auditable records. The provider shall be responsible for costs incurred by the department's auditors when additional services or procedures are performed to complete the audit.

H. Vendor payments may also be withheld under the following conditions:

1. a center fails to submit corrective action plans in response to financial and compliance audit findings within 15 days after receiving the notification letter from the department; or
2. a center fails to respond satisfactorily to the department's request for information within 15 days after receiving the department's notification letter.

I. The provider shall cooperate with the audit process by:

1. promptly providing all documents needed for review;
2. providing adequate space for uninterrupted review of records;
3. making persons responsible for center records and cost report preparation available during the audit;
4. arranging for all pertinent personnel to attend the closing conference;
5. insuring that complete information is maintained in client's records;
6. developing a plan of correction for areas of noncompliance with state and federal regulations immediately after the exit conference time limit of 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2169 (October 2008), repromulgated LR 34:2574 (December 2008).

#### §2913. Exclusions from the Database

A. The following providers shall be excluded from the database used to calculate the rates:

1. providers with disclaimed audits; and
2. providers with cost reports for periods other than a 12-month period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2170 (October 2008), repromulgated LR 34:2574 (December 2008).

### §2915. Provider Reimbursement

#### A. Cost Determination Definitions

*Adjustment Factor*—computed by dividing the value of the index for December of the year preceding the rate year by the value of the index one year earlier (December of the second preceding year).

*Base Rate*—calculated in accordance with §2915.B.5, plus any base rate adjustments granted in accordance with §2915.B.7 which are in effect at the time of calculation of new rates or adjustments.

*Base Rate Components*—the base rate is the summation of the following:

- a. direct care;
- b. care related costs;
- c. administrative and operating costs; and
- d. property costs.

#### *Indices*—

a. *CPI, All Items*—the Consumer Price Index for All Urban Consumers-South Region (All Items line) as published by the United States Department of Labor.

b. *CPI, Medical Services*—the Consumer Price Index for All Urban Consumers-South Region (Medical Services line) as published by the United States Department of Labor.

#### B. Rate Determination

1. The base rate is calculated based on the most recent audited or desk reviewed cost for all ADHC providers filing acceptable full year cost reports.

2. Audited and desk reviewed costs for each component are ranked by center to determine the value of each component at the median.

3. The median costs for each component are multiplied in accordance with §2915.B.4 then by the appropriate economic adjustment factors for each successive year to determine base rate components. For subsequent years, the components thus computed become the base rate components to be multiplied by the appropriate economic adjustment factors, unless they are adjusted as provided in §2915.B.7 below. Application of an inflationary adjustment to reimbursement rates in non-rebasing years shall apply only when the state legislature allocates funds for this purpose. The inflationary adjustment shall be made prorating allocated funds based on the weight of the rate components.

4. The inflated median shall be increased to establish the base rate median component as follows.

a. The inflated direct care median shall be multiplied times 115 percent to establish the direct care base rate component.

b. The inflated care related median shall be multiplied times 105 percent to establish the care related base rate component.

c. The administrative and operating median shall be multiplied times 105 percent to establish the administrative and operating base rate component.

5. At least every three years, audited and desk reviewed cost report items will be compared to the rate components calculated for the cost report year to insure that the rates remain reasonably related to costs.

6. *Formulae*. Each median cost component shall be calculated as follows.

a. *Direct Care Cost Component*. Direct care per diem costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for Medical Services. The direct care rate component shall be set at 115 percent of the inflated median.

i. For dates of service on or after February 9, 2007, and extending until the ADHC rate is rebased using a cost report that begins after 7/1/2007, the center-specific direct care rate will be increased by \$1.11 to include a direct care service worker wage enhancement. It is the intent that this wage enhancement be paid to the direct care service workers.

b. *Care Related Cost Component*. Care related per diem costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for All Items. The care related rate component shall be set at 105 percent of the inflated median.

c. *Administrative and Operating Cost Component*. Administrative and operating per diem cost from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost of the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward by dividing the value of the CPI-All Items index for December of the year preceding the base rate year by the value of the index for the December of the year preceding the cost report year. The administrative and operating rate component shall be set at 105 percent of the inflated median.

d. *Property Cost Component*. The property per diem costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. This will be the rate component. Inflation will not be added to property costs.

7. *Interim Adjustments to Rates*. If an unanticipated change in conditions occurs that affects the cost of at least 50 percent of the enrolled ADHC providers by an average of five percent or more, the rate may be changed. The department will determine whether or not the rates should be changed when requested to do so by 25 percent or more of the enrolled providers, or an organization representing at least 25 percent of the enrolled providers. The burden of proof as to the extent and cost effect of the unanticipated change will rest with the entities requesting the change. The department may initiate a rate change without a request to do so. Changes to the rates may be temporary adjustments or base rate adjustments as described below.

a. Temporary Adjustments. Temporary adjustments do not affect the base rate used to calculate new rates.

i. Changes Reflected in the Economic Indices. Temporary adjustments may be made when changes which will eventually be reflected in the economic indices, such as a change in the minimum wage, a change in FICA or a utility rate change, occur after the end of the period covered by the indices, i.e., after the December preceding the rate calculation. Temporary adjustments are effective only until the next annual base rate calculation.

ii. Lump Sum Adjustments. Lump sum adjustments may be made when the event causing the adjustment requires a substantial financial outlay, such as a change in certification standards mandating additional equipment or furnishings. Such adjustments shall be subject to the Bureau's review and approval of costs prior to reimbursement.

b. Base Rate Adjustment. A base rate adjustment will result in a new base rate component value that will be used to calculate the new rate for the next fiscal year. A base rate adjustment may be made when the event causing the adjustment is not one that would be reflected in the indices.

8. Provider Specific Adjustment. When services required by these provisions are not made available to the recipient by the provider, the department may adjust the prospective payment rate of that specific provider by an amount that is proportional to the cost of providing the service. This adjustment to the rate will be retroactive to the date that is determined by the department that the provider last provided the service and shall remain in effect until the department validates, and accepts in writing, an affidavit that the provider is then providing the service and will continue to provide that service.

C. Cost Settlement. The direct care cost component shall be subject to cost settlement. The direct care floor shall be equal to 90 percent of the median direct care rate component trended forward for direct care services (plus 90 percent of any direct care incentive added to the rate). The Medicaid program will recover the difference between the direct care floor and the actual direct care amount expended. If a provider receives an audit disclaimer, the cost settlement for that year will be based on the difference between the direct care floor and the lowest direct care per diem of all facilities in the most recent audited and/or desk reviewed database trended forward to the rate period related to the disclaimer.

D. Support Coordination Services Reimbursement. Support coordination services previously provided by ADHC providers and included in the rate, including the Minimum Data Set Home Care (MDS/HC), the social assessment, the nursing assessment, the CPOC and home visits will no longer be the responsibility of the ADHC provider. Support coordination services shall be provided as a separate service covered in the ADHC Waiver. As a result of the change in responsibilities, the rate paid to ADHC providers shall be adjusted accordingly.

1. Effective January 1, 2009, the rate paid to ADHC providers on December 31, 2008 shall be reduced by \$4.67 per day which is the cost of providing support coordination services separately.

2. This rate reduction will extend until such time that the ADHC provider's rate is rebased using cost reports that

do not reflect the cost of delivering support coordination services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2170 (October 2008), repromulgated LR 34:2575 (December 2008).

## **Chapter 31. Reimbursement**

### **Subchapter A. Prospective Payment System**

#### **§3101. General Provisions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2042 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2171 (October 2008), repromulgated LR 34:2576 (December 2008).

#### **§3103. Cost Reporting**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2043 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2171 (October 2008), repromulgated LR 34:2576 (December 2008).

#### **§3105. Cost Categories Included in Cost Report**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2045 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2172 (October 2008), repromulgated LR 34:2576 (December 2008).

#### **§3107. Nonallowable Costs**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2047 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2172 (October 2008), repromulgated LR 34:2576 (December 2008).

#### **§3109. Provider Reimbursement**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2048 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2172 (October 2008), repromulgated LR 34:2576 (December 2008).

### **Subchapter B. Admission Assessment/Vendor Payment**

#### **§3121. BHSF Admission Assessment/Vendor Payment**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2049 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2172 (October 2008), repromulgated LR 34:2577 (December 2008).

### **Chapter 33. Quality Assurance Monitoring**

#### **§3301. Utilization Review**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2050 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2172 (October 2008), repromulgated LR 34:2577 (December 2008).

#### **§3303. Inspection of Care**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2051 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2172 (October 2008), repromulgated LR 34:2577 (December 2008).

#### **§3305. Discharge Planning and Implementation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2053 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2172 (October 2008), repromulgated LR 34:2577 (December 2008).

### **Chapter 35. Appeals**

#### **§3501. General Procedures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2055 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2172 (October 2008), repromulgated LR 34:2577 (December 2008).

#### **§3503. Evidentiary Hearing**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2056 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2172 (October 2008), repromulgated LR 34:2577 (December 2008).

### **Chapter 37. Audits**

#### **§3701. Audits**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2057 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult

Services, LR 34:2172 (October 2008), repromulgated LR 34:2577 (December 2008).

### **Chapter 39. Sanctions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2058 (September 2004), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2172 (October 2008), repromulgated LR 34:2577 (December 2008).

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Alan Levine  
Secretary

0812#077

### **RULE**

#### **Department of Health and Hospitals Office of the Secretary Office of Aging and Adult Services**

Personal Care Services—Long Term  
Louisiana Personal Options Program  
(LAC 50:XV.Chapter 129)

The Department of Health and Hospitals, Office of Aging and Adult Services has amended LAC 50:XV.Chapter 129 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### **Title 50**

#### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

#### **Subpart 9. Personal Care Services**

#### **Chapter 129. Long Term Care**

#### **§12901. General Provisions**

A. The purpose of personal care services is to assist individuals with functional impairments with their daily living activities to enable them to reside and remain safely in their own home. The mission of Medicaid funded personal care services is to supplement the family and/or community supports that are available to maintain the recipient in the community. This service program is not intended to be a substitute for available family and/or community supports. Personal care services must be provided in accordance with an approved service plan and supporting documentation. In addition, personal care services must be coordinated with the other Medicaid services being provided to the recipient and will be considered in conjunction with those other services.

B. ...

C. Authorization. Personal care services shall be authorized by the Department of Health and Hospitals, Office of Aging and Adult Services (OAAS) or its designee. The department, or its designee, will review the completed assessment, supporting documentation, plan of care or any other pertinent documents to determine whether the recipient

meets the medical necessity criteria for personal care services.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:911 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2577 (December 2008).

#### **§12902. Participant Direction Option**

A. The Office of Aging and Adult Services implements a pilot program, the Louisiana Personal Options Program (La POP), which will allow recipients who receive long term-personal care services (LT-PCS) to have the option of utilizing an alternative method to receive and manage their services. Recipients may direct and manage their own services by electing to participate in La POP, rather than accessing their services through a traditional personal care agency. The Louisiana Personal Options Program requires greater individual responsibility, but offers the participants greater control, flexibility and choice over the services they receive.

1. La POP will be implemented through a phased-in process in Department of Health and Hospitals administrative regions designated by OAAS.

2. La POP participants will use a monthly budget allowance to manage their own personal care services. Some of the monthly allowance may be used to purchase items that increase a participant's independence or substitute for his/her dependence on human assistance.

B. Participants are required to use counseling and financial management services in order to assume responsibility for directing their services and managing their budget.

1. A financial management agency is utilized to provide financial management and payroll services to La POP participants.

2. With the assistance of a services consultant, participants develop a personal support plan (PSP) based on their approved plan of care and choose the individuals they wish to hire to provide the services.

C. An orientation to the Louisiana Personal Options Program, including participant roles and responsibilities, is required for all participants prior to the completion of enrollment in the program. The intent of the orientation is to provide participants with a program handbook and other tools they need to effectively and safely manage their services.

D. La POP participants may elect to discontinue participation in the program at any time. The services consultant must be notified and will begin the disenrollment process within five business days from the date of notification. A face-to-face meeting may be required if the individual remains eligible for long-term personal care services.

1. La POP services will continue until the transition to services provided by a personal care agency is completed.

2. Once disenrolled from La POP, the participant must continue to receive services through a traditional personal care services agency for a minimum of three months before re-enrollment in La POP can be considered.

E. La POP participants may be involuntarily disenrolled from the program for any of the following reasons.

1. Health, Safety and Well-Being. The Office of Aging and Adult Services or its designee makes a determination that the health, safety and well-being of a participant is compromised or threatened by continued participation in La POP.

2. Change in Condition. The participant's ability to direct his/her own care diminishes to a point where he/she can no longer do so and there is no personal representative available to direct the care.

3. Misuse of Monthly Allocation of Funds. The LA POP participant or his/her personal representative uses the monthly budgeted funds to purchase items unrelated to personal care needs or otherwise misappropriate the funds.

4. Failure to Provide Required Documentation. The participant or his/her personal representative fails to complete and submit employee time sheets in a timely and accurate manner, or provide required documentation of expenditures and related items as prescribed in the Louisiana Personal Options Program's Roles and Responsibility agreement.

5. Unsafe Working Conditions. The conditions in the workplace prevent the direct service worker from performing his/her duties or threaten his/her safety. The direct service worker must document and report these situations to OAAS or its designee.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008).

#### **§12903. Covered Services**

A. Personal care services are defined as those services that provide assistance with the distinct tasks associated with the performance of the activities of daily living (ADLs) and the instrumental activities of daily living (IADLs). Assistance may be either the actual performance of the personal care task for the individual or supervision and prompting so the individual performs the task by him/herself. ADLs are those personal, functional activities required by an individual for continued well-being, health and safety. ADLs include tasks such as:

A.1. - B.7. ...

8. reminding the recipient to take his/her medication as prescribed by the physician.

C. ...

1. La POP participants may choose to use some of their monthly budget to purchase non-medical transportation. If transportation is furnished, the participant must accept all liability for their employee transporting them. It is the responsibility of the participant to ensure that the employee has a current, valid driver's license and automobile liability insurance.

D. - E. ...

F. La POP Participants may choose to use their services budgets to pay for items that increase their independence or substitute for their dependence on human assistance. Such items must be purchased in accordance with the policies and procedures established by OAAS.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008).

#### **§12905. Recipient Qualifications**

A. Personal care services shall be available to recipients who are 65 years of age or older, or 21 years of age or older and have a disability. Persons with a disability must as meet the disability criteria established by the Social Security Administration.

B. Personal care services for elderly or disabled recipients must meet medical necessity criteria as determined by OAAS and must be prior authorized by OAAS or its designee. Personal care services are medically necessary if the recipient:

1. - 3.c. ...

C. Persons who are eligible to receive LT-PCS have the option of participating in La POP. To participate in La POP, the individual must:

1. give informed consent to participate;
2. be able to understand the rights, risks, and responsibilities of managing his/her own care; and
3. be willing to complete and follow a personal supports plan with the help of a services consultant; or
4. if unable to make decisions independently, have a willing personal representative who understands the rights, risks and responsibilities of managing the participant's care.

D. Persons designated as the personal representative of either an individual receiving services under LT-PCS or the La POP option may not be the paid direct service worker of the individual they are representing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2579 (December 2008).

#### **§12907. Recipient Rights and Responsibilities**

A. Recipients who receive services under the Long-Term Personal Care Services Program have the right to actively participate in the development of their plan of care and the decision-making process regarding service delivery. Recipients also have the right to freedom of choice in the selection of a provider of personal care services and to participate in the following activities:

1. - 3. ...

4. developing an emergency component in the plan of care that includes a list of personal care staff who can serve as back-up when unforeseen circumstances prevent the regularly scheduled work from providing services;

5. - 9. ...

B. Changing Providers. Recipients may request to change PCS agencies without cause once after each three month service authorization period. Recipients may request to change PCS providers with good cause at any time during the service authorization period. Good cause is defined as the failure of the provider to furnish services in compliance with the plan of care. Good cause shall be determined by the bureau or its designee.

C. In addition to these rights, recipients who enroll to participate in La POP have certain responsibilities, including:

1. managing their services budget in accordance with an approved personal supports plan;

2. notifying their services consultant at the earliest reasonable time of admission to a hospital, nursing facility, rehabilitation facility or any other institution:

a. participants are not entitled to use the monies in the personal direction budget during the time they are an inpatient or resident of a facility;

3. interviewing, hiring, supervising and firing their direct service workers and other employer related functions;

4. completing and submitting all required paperwork in a timely manner and complying with all applicable tax and labor laws;

5. treating their employees, the services consultant and La POP staff with respect;

6. assuring that the direct service worker is on the Louisiana Direct Services Worker Registry before wages can be authorized and paid;

7. authorizing and making changes in worker wages and benefits within the authorized budget of the personal supports plan;

8. developing the work schedule for their direct service worker;

9. training the direct service worker in the specific skills necessary to safely maintain the participant's independent functioning to remain in the home;

10. developing a viable individualized emergency back-up plan in the personal supports plan;

11. accurately signing off on payroll logs and other documentation to verify staff work hours and authorizing payment;

12. cooperating with the department's quality assurance, program integrity, and program evaluation activities; and

13. providing any documentation requested by the department or its designee in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008).

#### **§12909. Agency Standards for Participation**

A. - A.1.d. ...

2. must possess a current, valid home and community based services license to provide personal care attendant services issued by the Department of Health and Hospitals, Health Standards Section.

B. - B.12.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008).

### **§12910. La POP Standards for Participation**

A. Direct service workers employed under LA POP must be hired through the Direct Services Worker (DSW) registry. The DSW registry incorporates several quality safeguards, including training and criminal background check requirements, which will assist the LA POP participant in obtaining qualified staff.

B. The participant may make an offer of temporary employment to a prospective direct service worker pending the results of the criminal background check. In such instances, the worker shall perform his/her duties:

1. under the direct supervision of another direct service worker who has successfully undergone a criminal background check;
2. in the presence of a member of the participant's immediate family; or
3. in the presence of a care giver designated by the participant or immediate family.

C. All workers must be employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2580 (December 2008).

### **§12911. Staffing Requirements**

A. All staff providing direct care to the recipient, whether they are employed by a PCS agency or a recipient participating in La POP, must meet the qualifications for furnishing personal care services. The direct service worker shall demonstrate empathy toward the elderly and persons with disabilities, an ability to provide care to these recipients, and the maturity and ability to deal effectively with the demands of the job.

B. - B.3. ...

C. Restrictions. A legally responsible relative is prohibited from being the paid direct service worker for a family member. For the purposes of the Long Term-Personal Care Services Program, legally responsible relative is defined as the recipient's spouse, curator, tutor, or legal guardian.

D. Supervisor Qualifications. All supervisors of direct care staff must meet the following qualifications. These provisions do not apply to La POP participants.

D.1. - E.1.a. ...

b. periodic (at least quarterly) unannounced visits to the recipient's residence to monitor service delivery and compliance with the plan of care.

E.2. - F.5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2580 (December 2008).

### **§12912. Training**

A. A personal care services agency may either provide, or arrange for, training for direct service workers and supervisors. Agency sponsored training must be furnished at the agency's own expense.

B. Direct service workers and supervisory staff also have the option to directly obtain training from entities whose curriculum has been approved by the Department of Health and Hospitals, Health Standards Section.

C. A minimum of eight hours of orientation must be provided to new direct care and supervisory employees within one week of employment. The orientation provided to staff shall include, but is not limited to:

1. agency policies and procedures;
2. staff duties and responsibilities;
3. ethics and confidentiality;
4. record keeping;
5. a description of the population served by the agency; and
6. a discussion of issues related to providing care for these individuals, including physical and emotional problems associated with aging and disability.

D. New direct care staff must also receive training in cardiopulmonary resuscitation (CPR) and basic first aid within one week of employment. A current, valid certification for CPR and first aid may be accepted as verification of training.

E. A minimum of 16 hours of training must be furnished to new employees within 30 days of employment. The PCS agency training curriculum must, at a minimum, include the following components:

1. communication skills;
2. observation, reporting and documentation of the recipient status and the care or service furnished;
3. basic infection control procedures;
4. basic elements of body functioning and changes in body function that must be reported to a worker's supervisor;
5. safe transfer techniques and ambulation;
6. appropriate and safe techniques in personal hygiene and grooming that include:
  - a. bed bath;
  - b. sponge, tub, or shower bath;
  - c. sink, tub, bed shampoo;
  - d. nail and skin care;
  - e. oral hygiene; and
  - f. toileting and elimination;
7. recognizing emergencies and knowledge of emergency procedures;
8. maintenance of a clean, safe and healthy environment; and
9. treating the recipient with dignity and respect, including the need to respect his/her privacy and property.

F. PCS workers and supervisors must satisfactorily complete a minimum of 20 hours of annual training related to the provision of personal care services. This training may include updates on the subjects covered in orientation and initial training. The eight hours of orientation required for new employees are not included as part of the hours required for the annual training.

G. For direct service workers employed by La POP participants, training must be performed by an entity approved by the Department of Health and Hospitals, Health Standards Section. Costs of this training will be paid out of the La POP participant's personal supports plan budget.

1. A minimum of eight hours of orientation must be provided to a new La POP direct service worker within one

week of employment. A portion of this orientation may be provided by the participant and other components may be obtained from an entity approved conduct DSW training.

2. Orientations conducted for staff employed through LA POP must include the same components required for orientations conducted by PCS agencies except for the following topics:

- a. agency policies and procedures;
- b. staff duties and responsibilities; and
- c. a description of the population served by the agency.

3. The following topics must be included in La POP staff orientations:

- a. personal care service procedures;
- b. direct service worker responsibilities; and
- c. participant values and preferences.

4. New La POP direct service workers must also receive training in cardiopulmonary resuscitation (CPR) and basic first aid within one week of employment. A current, valid certification for CPR and first aid may be accepted as verification of training.

5. A minimum of 16 hours of training must be furnished to a new direct service worker employed through La POP within 30 days of employment and must include all of the components required for the PCS agency training curriculum.

H. Documentation. All required training must be documented in the employee's personnel record (maintained by either the PCS agency, fiscal agent or the La POP participant) including the date(s) of training, time spent in the training session, subjects covered and the name of the individual who conducted the training. Verification of training shall be furnished to the OAAS or its designee upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2580 (December 2008).

### **§12913. Place of Service**

A. - C.3. ...

D. Participants are not permitted to live in homes or property owned, operated, or controlled by a provider of services who is not related by blood or marriage to the participant.

E. Place(s) of service must be documented in the plan of care and service logs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended LR 30:2833 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008).

### **§12915. Service Limitations**

A. Personal care services shall be limited to up to 56 hours per week. Authorization of service hours shall be considered on a case-by-case basis as substantiated by the recipient's plan of care and supporting documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008).

### **§12917. Reimbursement Methodology**

A. - B.8.d. ...

C. La POP Payment Methodology

1. The budget amount will be based on the number of service hours (in one-quarter hour increments) approved by OAAS or its designee multiplied by the established fee schedule rate. The product of approved hours times the fee schedule rate will be the overall budget amount. A percentage of the overall budget will be used to offset some of the administrative costs for the fiscal management agency and the counseling support functions. After the percentage has been deducted from the overall budget, the remainder will be the budget amount for the individual participant. The participant will allocate these budget funds to cover personal support services and other items in his/her approved personal support plan.

2. Expenditures shall only be made in accordance with the approved personal supports plan and the Louisiana Personal Options Program guidelines.

3. The authorized hours and fee schedule rate will be the same whether the personal care services are agency-directed or participant-directed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:2581 (December 2008).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Alan Levine  
Secretary

0812#078

## **RULE**

### **Department of Health and Hospitals Office of Public Health**

#### **Disease Reporting Requirements, Reportable Diseases and Conditions (LAC 51:II.101 and 105)**

Editor's Note: The following Rule is being repromulgated to correct typographical errors. The original Rule can be viewed in its entirety on page 2172 of the October 20, 2008 *Louisiana Register*.

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health pursuant to the authority in R.S. 40:5, has amended Title 51, Part II, Chapter 1 providing for the control of diseases and disease reporting requirements. The changes below represent upgrades to the present Sanitary Code to accommodate new diseases and conditions of public health concern. The changes to the Sanitary Code

include additions and amendments to the list of Reportable Diseases and Conditions.

## Title 51

### PUBLIC HEALTH—SANITARY CODE

#### Part II. The Control of Diseases

#### Chapter 1. Disease Reporting Requirements

##### §101. Definitions

[formerly paragraph 2:001]

A. ...

*Carbon Monoxide*—carbon monoxide (CO) is a colorless, odorless, poisonous gas produced through incomplete combustion of carbon-based fuels, including gasoline, oil, and wood.

\*\*\*

*Case of Carbon Monoxide Exposure*—any medical condition/visit resulting from carbon monoxide exposure as determined from the exposure history or patient statement and/or injury resulting from inhalation contact with carbon monoxide. Laboratory test results for carbon monoxide includes results of carboxyhemoglobin tests (blood samples), regardless of test result.

\*\*\*

AUTHORITY NOTE: The first source of authority for promulgation of the sanitary code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the specific provisions of R.S. 40:4(A)(2) and R.S. 40:5(1)(2) and (10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:1050 (June 2006), LR 34:2173 (October 2008), repromulgated LR 34:2582 (December 2008).

##### §105. Reportable Diseases and Conditions

[formerly paragraph 2:003]

A. The following diseases or conditions are hereby declared reportable with reporting requirements by Class.

1. - 3.a.xxxiv. ...

4. Class D Special Reportable Diseases or Conditions Shall Require Reporting within Five Business Days.

a. This class shall include the diseases of significant public health concern. The following diseases/conditions shall be reported to the Office of Public Health by the end of the workweek after the existence of a case, suspected case, or a positive laboratory result is known:

- i. cancer;
- ii. carbon monoxide exposure and / or poisoning;
- iii. complications of abortion;
- iv. congenital hypothyroidism<sup>3</sup>;
- v. galactosemia<sup>3</sup>;
- vi. heavy metal (arsenic, cadmium, mercury) exposure and/or poisoning (all ages);
- vii. hemophilia<sup>3</sup>;
- viii. lead exposure and/or poisoning (all ages)<sup>3</sup>;
- ix. pesticide-related illness or injury (all ages);
- x. phenylketonuria<sup>3</sup>;
- xi. Reye's Syndrome;
- xii. severe traumatic head injury;
- xiii. severe under nutrition (severe anemia, failure to thrive);
- xiv. sickle cell disease (newborns)<sup>3</sup>;
- xv. spinal cord injury;
- xvi. sudden infant death syndrome (SIDS).

B. Case reports not requiring special reporting instructions (see below) can be reported by confidential disease report forms (2430), facsimile, phone reports or through the Office of Public Health's electronic reportable disease database: <https://ophrdd.dhh.state.la.us>.

1. <sup>1</sup>Report on STD-43 form. Report cases of syphilis with active lesions by telephone.

2. <sup>2</sup>Report on CDC72.5 (f.5.2431) card.

3. <sup>3</sup>Report to the Louisiana Genetic Diseases Program and Louisiana Childhood Lead Poisoning Prevention Programs.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:1050 (June 2006), LR 34:2173 (October 2008), repromulgated LR 34:2582 (December 2008).

Alan Levine  
Secretary

0812#082

## RULE

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Adult Residential Care Providers—Minimum  
Licensing Standards (LAC 48:I.Chapter 68)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 48:I.Chapter 68 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2163.1-2163.8, and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

## Title 48

### PUBLIC HEALTH—GENERAL

#### Part 1. General Administration

#### Subpart 3. Licensing and Certification

#### Chapter 68. Adult Residential Care Providers Licensing Standards

##### Subchapter A. General Provisions

##### §6801. Introduction

A. These rules and regulations contain the minimum licensure standards for Adult Residential Care Providers, pursuant to R.S. 40:2166.1-2166.8.

B. An adult residential care provider (ARCP) serves individuals in a congregate setting in their own apartments. An ARCP is operational 24 hours per day, seven days per week.

C. An ARCP provides adult residential care for two or more adults who are unrelated to the licensee or the operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2582 (December 2008).

##### §6803. Definitions

*Abuse*—the infliction of physical or mental injury or the causing of the deterioration of a resident by means

including, but not limited to, sexual abuse, exploitation, or extortion of funds or other things of value to such an extent that the resident's health, moral, or emotional well-being is endangered.

*Activities of Daily Living*—activities of daily living include, but are not limited to, ambulating, transferring, grooming, bathing, dressing, eating and toileting.

*Administrator*—the person who is in charge of the daily operation of the facility.

*Adult Residential Care Service Plan*—a written description of the functional capabilities of an individual, the individual's need for personal assistance and the services to be provided to meet the individual's needs.

*Adult Residential Care Provider (ARCP)*—any facility, agency, institution, society, corporation, partnership, company, entity, residence, person or persons, or any other group, whether public or private, that provides residential living units and provides adult residential care services for compensation to two or more adults who are unrelated to the facility owner or director.

1. An ARCP shall be licensed by the Louisiana Department of Health and Hospitals to provide all services required of an adult residential care provider.

*Adult Residential Care Services*—a coordinated array of supportive personal services, 24-hour supervision and assistance, both scheduled and unscheduled assistance, activities, and health related services designed to accommodate an individual resident's changing needs and preference.

*Aging in Place*—allowing residents to receive necessary support services in response to changing needs and circumstances without having to move from one's present residence, provided such services are within the parameters of these licensing standards.

*Alzheimer's Special Care Unit (ASCU)*—a separate and distinct unit within an ARCP or other long term care facility that segregates and provides a special program for residents who have a diagnosis of probable Alzheimer's disease or related dementia, and that advertises, markets or otherwise promotes the facility as providing specialized Alzheimer's or related dementia care services.

*Chemical Restraint*—a psychopharmacologic drug that is not used for discipline or convenience and not required to treat medical symptoms.

*Common Area (Space)*—the interior congregate space(s) made available for the free and informal use by residents or the guests of the ARCP. Common areas may include dining rooms, activity rooms, library, and other areas exclusive of resident's rooms and bathrooms.

*Department*—the Louisiana Department of Health and Hospitals.

*Direct Care Staff*—any staff acting on behalf of, employed by, or contracted by the ARCP facility, to provide direct care services or assistance to residents. This includes activities of daily living and tasks related to medication administration or assistance. Direct care staff may include, but is not limited to a:

1. registered nurse;
2. licensed practical nurse;
3. certified nursing assistant; and
4. direct service worker.

*Health Care Services*—any service provided to a resident by an ARCP or third-party provider and required to be provided or delegated by a licensed, registered or certified health care professional. Any other service, whether or not ordered by a physician, that is not required to be provided by a licensed, registered or certified health care professional is not to be considered a health care service.

*House Rules*—any written and posted statements addressing house activities in an ARCP that must be in compliance with ARCP regulations or other Louisiana regulatory authority, but are specific to the ARCP dwelling (e.g. pet policy, non-smoking policy). Residents should be made aware of these rules prior to admission to the ARCP.

*Incident*—any occurrence, situation or circumstance affecting the health, safety or well-being of a resident or residents.

*Instrumental Activities of Daily Living (IADLs)*—instrumental, essential activities for persons, but are not usually considered as basis or vital activities of daily living, and may not be daily activities. Such activities would include, but are not limited to:

1. socialization;
2. managing personal affairs;
3. financial management;
4. shopping;
5. housekeeping;
6. appropriate transportation;
7. correspondence; and
8. behavior and health management.

*Intermittent nursing care*—care that is provided episodically, irregularly or for a limited period of time by licensed nursing staff. Examples include:

1. episodic—dressing changes and treatment for a recurring leg ulcer for a diabetic resident;
2. irregularly—monitoring blood sugar levels by finger stick when a change in the resident's mental status is noted; and
3. limited time period—blood pressure checks daily or weekly for two weeks.

*Neglect*—the failure to provide the proper or necessary medical care, nutrition, or other care necessary for a resident's well-being.

*Negotiated Risk*—the process of balancing resident choice and independence with the health and safety of the resident or other persons in the facility or program.

*Personal Care Services*—services that directly help a resident with certain activities of daily living such as:

1. assistance with mobility and transfers;
2. assistance with meal consumption;
3. grooming;
4. shaving;
5. trimming or shaping fingernails and toenails;
6. bathing;
7. dressing;
8. personal hygiene;
9. bladder and bowel requirements, including incontinence; or
10. self-assistance with medication to the extent permitted by law or regulation.

*Personal Representative*—a person who represents the interests of the applicant who is not capable of self-direction. The function of the personal representative is to accompany,

assist, and represent the applicant in the program evaluation process, and to aid in obtaining all necessary documentation for the agency's evaluation for services.

*Physical Restraint*—any physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the individual cannot remove easily, and which restricts freedom of movement or normal access to one's body and is not used as an assistive device.

*Renovation*—cosmetic changes to the existing facility including, but not limited to:

1. painting;
2. replacement or repair of carpet, tile or linoleum; and
3. minor repairs.

*Residential Living Unit*—a separate apartment or unit providing a private residential area, which includes living space, sleeping space, kitchen area, bathroom, and adequate storage areas.

*Substantial Rehabilitation*—any rehabilitation that involves structural changes in which hard costs are equal to or exceed the per unit cost for substantial rehabilitation as defined by the Louisiana Housing Finance Agency.

*Visually and Functionally Distinct Area*—a space that can be distinguished by sight from other areas within the apartment. A visually and functionally distinct area need not be a separate room. To create a visually distinct area, one or more of the following methods must be employed:

1. change in ceiling height;
2. separation by ceiling soffit(s) or wall returns;
3. change in flooring color;
4. partial height partitions or counters;
5. use of alcoves; or
6. use of permanent screening devices such as columns or fixed screens.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2582 (December 2008).

#### **§6805. Licensure Requirements**

A. All ARCP facilities shall be licensed by the Department of Health and Hospitals (DHH). DHH is the only licensing authority for ARCP facilities in the State of Louisiana. It shall be unlawful to operate an ARCP facility without possessing a current, valid license issued by DHH. The license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the ARCP facility to which it is issued and only for the specific geographic address of that facility;
3. be valid for one year from the date of issuance, unless revoked, suspended, modified, or terminated prior to that date, or unless a provisional license is issued;
4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the ARCP;
5. not be subject to sale, assignment, donation, or other transfer, whether voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

B. In order for the ARCP facility to be considered operational and retain licensed status, the facility shall meet the following conditions.

1. The ARCP shall always have at least one employee on duty at the business location 24 hours per day, seven days per week.

2. There shall be staff employed and available to be assigned to provide care and services to residents at all times.

3. The ARCP shall have admitted at least two residents in the preceding 12 months prior to their licensure renewal survey.

C. The licensed ARCP shall abide by and adhere to any state law, rules, policy, procedure, manual, or memorandums pertaining to ARCP facilities.

D. A separately licensed ARCP shall not use a name which is substantially the same as the name of another ARCP licensed by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2584 (December 2008).

#### **§6807. Initial Licensure Application Process**

A. An initial application for licensing as an ARCP shall be obtained from the department. A completed initial license application packet for an ARCP shall be submitted to and approved by DHH prior to an applicant providing ARCP services. An applicant shall submit a completed initial licensing packet to DHH, which shall include:

1. a completed ARCP licensure application and the non-refundable licensing fee as established by statute;
2. a copy of the approval letter of the architectural facility plans from the DHH Department of Engineering and Architectural Services and the Office of the State Fire Marshal;
3. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal;
4. a copy of the health inspection report with approval of occupancy from the Office of Public Health;
5. a copy of criminal background checks on all owners;
6. proof of financial viability entails:
  - a. verification of sufficient assets equal to \$100,000 or the cost of three months of operation, whichever is less; or
  - b. a letter of credit equal to \$100,000 or the cost of three months of operation, whichever is less.
7. proof of general and professional liability insurance of at least \$300,000;
8. proof of worker's compensation insurance;
9. if applicable, Clinical Laboratory Improvement Amendments (CLIA) certificate or CLIA certificate of waiver;
10. a completed disclosure of ownership and control information form;
11. a floor sketch or drawing of the premises to be licensed;
12. the days and hours of operation; and
13. any other documentation or information required by the department for licensure.

B. If the initial licensing packet is incomplete, the applicant will be notified of the missing information and will have 90 days to submit the additional requested information. If the additional requested information is not submitted to

the department within 90 days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ARCP provider shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

C. Once the initial licensing application packet has been approved by DHH, the ARCP applicant shall notify DHH of readiness for an initial licensing survey within 90 days. If an applicant fails to notify DHH of readiness for an initial licensing survey within 90 days, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ARCP provider shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

D. Applicants must be in compliance with all appropriate federal, state, departmental, or local statutes, laws, ordinances, rules, regulations and fees before the ARCP will be issued an initial license to operate by DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2584 (December 2008).

#### **§6809. Initial Licensing Surveys**

A. Prior to the initial license being issued to the ARCP provider, an initial licensing survey shall be conducted on-site at the ARCP facility to assure compliance with ARCP licensing standards. No resident shall be provided services by the ARCP until the initial licensing survey has been performed, the ARCP found in compliance and the initial license issued to the ARCP by DHH.

B. In the event that the initial licensing survey finds that the ARCP facility is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

C. In the event that the initial licensing survey finds that the ARCP facility is noncompliant with any licensing laws or regulations that present a potential threat to the health, safety, or welfare of the participants, the department shall deny the initial license.

D. In the event that the initial licensing survey finds that the ARCP facility is noncompliant with any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety, or welfare of the participants, the department shall deny the initial license.

E. In the event that the initial licensing survey finds that the ARCP facility is noncompliant with any licensing laws or regulations, but the department in its sole discretion determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the department may issue a provisional initial license for a period not to exceed six months. The provider shall submit a plan of correction to DHH for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, then a full license will be issued. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the

provisional license will expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

F. In the event that the initial licensing survey finds that the ARCP facility is noncompliant with any required statutes, laws, ordinances, rules or regulations, but the department in its sole discretion determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the department may issue a provisional initial license for a period not to exceed six months. The provider shall submit a plan of correction to DHH for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, then a full license will be issued. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional license will expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

G. When issued, the initial ARCP license shall specify the maximum number of beds and units that are licensed to the ARCP.

H. The initial licensing survey of an ARCP provider shall be an announced survey. Follow-up surveys to the initial licensing surveys are not announced surveys.

I. Once an ARCP has been issued an initial license, the department shall conduct licensing and other surveys at intervals deemed necessary by DHH to determine compliance with licensing standards and regulations, as well as other required statutes, laws, ordinances, rules, regulations, and fees; these surveys shall be unannounced.

1. A plan of correction will be required from an ARCP for any survey where deficiencies have been cited. Such plan of correction shall be approved by DHH.

2. A follow-up survey shall be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

3. The department may issue appropriate sanctions, including, but not limited to:

- a. civil monetary penalties;
- b. directed plans of correction; and
- c. license revocations for deficiencies and noncompliance with any licensing survey.

J. DHH surveyors and staff shall be given access to all areas of the facility and all relevant files during any licensing or other survey. DHH surveyors and staff shall be allowed to interview any provider staff or participant as necessary to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:258 (December 2008).

#### **§6811. Types of Licenses and Expiration Dates**

A. The department shall have the authority to issue the following types of licenses:

1. In the event that the initial licensing survey finds that the ARCP is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the provider. The license shall be

valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

2. In the event that the initial licensing survey finds that the ARCP is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, the department is authorized to issue a provisional initial license pursuant to the requirements and provisions of these regulations.

3. The department may issue a full renewal license to an existing licensed ARCP provider who is in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

4. The department, in its sole discretion, may issue a provisional license to an existing licensed ARCP provider for a period not to exceed six months, for the following reasons:

a. the existing ARCP provider has more than five deficient practices or deficiencies cited during any one survey;

b. the existing ARCP provider has more than three validated complaints in one licensed year period;

c. the existing ARCP provider has been issued a deficiency that involved placing a participant at risk for serious harm or death;

d. the existing ARCP provider has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey; or

e. the existing ARCP provider is not in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules regulations and fees at the time of renewal of the license.

5. When the department issues a provisional license to an existing licensed ARCP provider, the department shall conduct an on-site follow-up survey at the ARCP provider prior to the expiration of the provisional license. If that on-site follow-up survey determines that the ARCP provider has corrected the deficient practices and has maintained compliance during the period of the provisional license, then the department may issue a full license for the remainder of the year until the anniversary date of the ARCP license. If that on-site follow-up survey determines that the ARCP has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional license shall expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

B. If an existing licensed ARCP provider has been issued a notice of license revocation, suspension, or termination, and the provider's license is due for annual renewal, the department shall deny the license renewal application.

1. If a timely administrative appeal has been filed by the provider regarding the license revocation, suspension, or termination, the administrative appeal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the administrative tribunal or department issues a decision on the license revocation, suspension, or termination.

2. If the secretary of the department determines that the violations of the facility pose an imminent or immediate

threat to the health, welfare, or safety of a participant, the imposition of such action may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the facility will be notified in writing.

3. The denial of the license renewal application does not affect in any manner the license revocation, suspension, or termination.

C. The renewal of a license does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the provider.

D. The license for an ARCP shall be valid for one year from the date of issuance, unless revoked, suspended, modified, or terminated prior to that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2585 (December 2008).

### **§6813. Changes in Licensee Information or Personnel**

A. An ARCP license shall be valid only for the person or entity named in the license application and only for the specific geographic address listed on the license application.

B. Any change regarding the ARCP's entity name, doing business as name, geographical address, mailing address, phone number, or any combination thereof, shall be reported in writing to DHH five days prior to the change.

C. Any change regarding the ARCP's key administrative personnel shall be reported in writing to DHH within 10 days of the change.

1. Key administrative personnel include the:

- a. administrator;
- b. assistant administrator;
- c. manager; and
- d. clinical director of nursing.

2. The facility's notice to DHH shall include the individual's:

- a. name;
- b. address;
- c. hire date; and
- d. qualifications.

D. A change of ownership (CHOW) of the ARCP shall be reported in writing to the department within five days of the change of ownership. The license of an ARCP is not transferable or assignable; the license of an ARCP cannot be sold. The new owner shall submit the legal CHOW document, all documents required for a new license, and the applicable licensing fee. Once all application requirements are completed and approved by DHH, a new license shall be issued to the new owner.

E. If the ARCP changes its name without a change in ownership, the ARCP shall report such change to DHH in writing five days prior to the change. The change in the ARCP name requires a change in the ARCP license. There is a \$25 fee for a name change and license.

F. Any request for a duplicate license shall be accompanied by a \$10 fee.

G. An ARCP that will be holding medications for residents and not stocking controlled dangerous substances will not be required to make application for a controlled dangerous substance (CDS) license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2586 (December 2008).

**§6815. Renewal of License**

A. License Renewal Application. The ARCP provider shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. The license renewal application packet shall include:

1. the license renewal application;
2. the days and hours of operation;
3. a current fire inspection report;
4. a current health inspection report;
5. the license renewal fee; and
6. any other documentation required by the department.

B. The Department may perform an on-site survey and inspection upon annual renewal of a license.

C. Failure to submit to DHH a completed license renewal application packet prior to the expiration of the current license will result in the voluntary non-renewal of the ARCP license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2587 (December 2008).

**§6817. Denial of License, Revocation of License, Denial of License Renewal**

A. The department may deny an application for a license, may deny a license renewal or may revoke a license in accordance with the provisions of the Administrative Procedure Act.

B. Denial of a Initial License

1. The department shall deny an initial license in the event that the initial licensing survey finds that the ARCP is noncompliant with any licensing laws or regulations that present a potential threat to the health, safety, or welfare of the residents.

2. The department shall deny an initial license in the event that the initial licensing survey finds that the ARCP is noncompliant with any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety, or welfare of the residents.

3. The department shall deny an initial license for any of the reasons in this §6817.D that a license may be revoked or non-renewed.

C. Voluntary Non-Renewal of a License

1. If a provider fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the provider.

D. Revocation of License or Denial of License Renewal. An ARCP license may be revoked or may be denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the ARCP licensing laws, rules and regulations;
2. failure to be in substantial compliance with other required statutes, laws, ordinances, rules, or regulations;
3. failure to comply with the terms and provisions of a settlement agreement or education letter;

4. failure to uphold resident rights whereby deficient practices may result in harm, injury, or death of a resident;

5. failure to protect a resident from a harmful act of an employee or other resident including, but not limited to:

- a. abuse, neglect, exploitation, or extortion;
- b. any action posing a threat to a resident's health and safety;
- c. coercion;
- d. threat or intimidation; or
- e. harassment;

6. failure to notify the proper authorities of all suspected cases of neglect, criminal activity, mental or physical abuse, or any combination thereof;

7. knowingly making a false statement in any of the following areas, including but not limited to:

- a. application for initial license or renewal of license;
- b. data forms;
- c. clinical records, resident records, or provider records;
- d. matters under investigation by the department or the Office of the Attorney General; or
- e. information submitted for reimbursement from any payment source;

8. knowingly making a false statement or providing false, forged, or altered information or documentation to DHH employees or to law enforcement agencies;

9. the use of false, fraudulent or misleading advertising;

10. fraudulent operation of an ARCP by the owner, administrator or manager;

11. an owner, officer, member, manager, administrator or person designated to manage or supervise participant care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court.

a. For purposes of this paragraph, conviction of a felony means a felony relating to the violence, abuse, or negligence of a person, or a felony relating to the misappropriation of property belonging to another person.

12. failure to comply with all reporting requirements in a timely manner as required by the department;

13. failure to allow or refusal to allow the department to conduct an investigation or survey or to interview provider staff or participants;

14. failure to allow or refusal to allow access to authorized departmental personnel to record;

15. bribery, harassment, or intimidation of any participant designed to cause that participant to use the services of any particular ARCP provider; or

16. cessation of business or non-operational status;

E. In the event an ARCP license is revoked or renewal is denied, (other than for cessation of business or non-operational status) any owner, officer, member, manager, director or administrator of such ARCP is prohibited from owning, managing, directing or operating another ARCP for a period of two years from the date of the final disposition of the revocation or denial action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2587 (December 2008).

**§6819. Notice and Appeal of License Denial, License Revocation and License Non-Renewal**

A. Notice of a license denial, license revocation or license non-renewal shall be given to the provider in writing.

B. The ARCP provider has a right to an informal reconsideration of the license denial, license revocation, or license non-renewal. There is no right to an informal reconsideration of a voluntary non-renewal or surrender of a license by the provider.

1. The ARCP provider shall request the informal reconsideration within 15 days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for informal reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section.

2. The request for informal reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an informal reconsideration is received by the Health Standards Section, an informal reconsideration shall be scheduled and the provider will receive written notification.

4. The provider shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the denial, revocation or non-renewal, shall not be a basis for reconsideration.

6. The informal reconsideration process is not in lieu of the administrative appeals process.

7. The provider will be notified in writing of the results of the informal reconsideration.

C. The ARCP provider has a right to an administrative appeal of the license denial, license revocation, or license non-renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the provider.

1. The ARCP provider shall request the administrative appeal within 30 days of the receipt of the results of the informal reconsideration. The ARCP may forego its rights to an informal reconsideration, and if so, the ARCP shall request the administration appeal within 30 days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for administrative appeal shall be in writing and shall be submitted to the DHH Bureau of Appeals.

2. The request for administrative appeal shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the Bureau of Appeals, the administrative appeal of the license revocation or license non-renewal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

a. If the secretary of the department determines that the violations of the facility pose an imminent or immediate threat to the health, welfare, or safety of a participant, the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency

of the administrative appeal. If the secretary of the department makes such a determination, the facility will be notified in writing.

4. Correction of a violation or a deficiency which is the basis for the denial, revocation, or non-renewal, shall not be a basis for the administrative appeal.

D. If an existing licensed ARCP provider has been issued a notice of license revocation and the provider's license is due for annual renewal, the department shall deny the license renewal application. The denial of the license renewal application does not affect in any manner the license revocation.

E. If a timely administrative appeal has been filed by the provider on a license denial, license non-renewal, or license revocation, the administrative tribunal shall conduct the hearing within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the administrative tribunal if good cause is shown.

1. If the final agency decision is to reverse the license denial, the license non-renewal, or the license revocation, the provider's license will be re-instated or granted upon the payment of any licensing or other fees due to the department.

F. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional initial license to a new ARCP provider. An existing provider who has been issued a provisional license remains licensed and operational and also has no right to an informal reconsideration or an administrative appeal. The issuance of a provisional license to an existing ARCP provider is not considered to be a denial of license, a denial of license renewal, or a license revocation.

1. A follow-up survey shall be conducted prior to the expiration of a provisional initial license to a new ARCP provider or the expiration of a provisional license to an existing provider.

2. A new provider that is issued a provisional initial license or an existing provider that is issued a provisional license shall be required to correct all noncompliance or deficiencies at the time the follow-up survey is conducted.

3. If all noncompliance or deficiencies have not been corrected at the time of the follow-up survey, or if new deficiencies that are a threat to the health, safety, or welfare of residents are cited on the follow-up survey, the provisional initial license or provisional license shall expire on its face.

4. The department shall issue written notice to the provider of the results of the follow-up survey.

5. A provider with a provisional initial license or an existing provider with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up survey, shall have the right to an informal reconsideration and the right to an administrative appeal.

a. The correction of a violation, noncompliance, or deficiency after the follow-up survey shall not be the basis for the informal reconsideration or for the administrative appeal.

b. The informal reconsideration and the administrative appeal are limited to whether the deficiencies were properly cited at the follow-up survey.

c. The provider must request the informal reconsideration within five days of the notice of the results of the follow-up survey from the department.

d. The provider must request the administrative appeal within 15 days of the notice of the results of the follow-up survey from the department.

e. A provider with a provisional initial license or an existing provider with a provisional license that expires under the provisions of this section shall cease providing services unless the administrative tribunal issues a stay of the expiration. The stay may be granted by the administrative tribunal upon application by the provider at the time the administrative appeal is filed and only after a contradictory hearing, and only upon a showing that there is no potential harm to the residents being served by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2588 (December 2008).

### **§6821. Complaint Surveys**

A. The department shall conduct complaint surveys in accordance with R.S. 40:2009.13, et seq.

B. Complaint surveys shall be unannounced surveys.

C. An acceptable plan of correction shall be submitted to the department for any complaint survey where deficiencies have been cited.

D. A follow-up survey shall be conducted for any complaint survey where deficiencies have been cited to ensure correction of the deficient practices.

E. The department may issue appropriate sanctions, including but not limited to, civil monetary penalties, directed plans of correction, and license revocations for deficiencies and non-compliance with any complaint survey.

F. DHH surveyors and staff shall be given access to all areas of the facility and all relevant files during any complaint survey. DHH surveyors and staff shall be allowed to interview any provider staff, participant, or resident as necessary or required to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2589 (December 2008).

### **§6823. Statement of Deficiencies**

A. Any statement of deficiencies issued by the department to the ARCP provider shall be posted in a conspicuous place on the licensed premises.

B. Any statement of deficiencies issued by the department to an ARCP provider shall be available for disclosure to the public 30 days after the provider submits an acceptable plan of correction to the deficiencies or 90 days after the statement of deficiencies is issued to the provider, whichever occurs first.

C. Unless otherwise provided in statute or in this licensing rule, a provider shall have the right to an informal reconsideration of any deficiencies cited as a result of a survey or investigation.

1. Correction of the violation, noncompliance or deficiency shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be requested in writing within 15 days of receipt of the statement of deficiencies.

3. The request for informal reconsideration of the deficiencies shall be made to the department's Health Standard Section.

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.11, et seq., and as provided for license denials, revocations, and non-renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

5. The provider shall be notified in writing of the results of the informal reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

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## **Subchapter B. Administration and Organization**

### **§6827. Governing Body**

A. Each ARCP must have an owner or identifiable governing body with responsibility for, and authority over, the policies and activities of the ARCP and ultimate authority for:

1. the overall operation of the facility;
2. the adequacy and quality of care;
3. the financial solvency of the facility and the appropriate use of its funds;
4. the implementation of the standards set forth in these regulations; and
5. the adoption, implementation and maintenance, in accordance with the requirement of state and federal laws and regulations and these licensing standards, of adult residential care and administrative policies governing the operation of the facility.

B. The ARCP shall have documents identifying the following information regarding the governing body:

1. names and addresses of all members;
2. terms of membership;
3. officers of the governing body; and
4. terms of office of any officers.

C. When the governing body of an ARCP is comprised of more than one person, the governing body shall hold formal meetings at least twice a year. There shall be written minutes of all formal meetings and bylaws specifying frequency of meetings and quorum requirements.

D. When the governing body is composed of only one person, this person shall assume all responsibilities of the governing body.

E. Responsibilities of a Governing Body. The governing body of an ARCP shall:

1. ensure the ARCP's compliance and conformity with the provider's charter or other organizational documents;
2. ensure the ARCP's continual compliance and conformity with all relevant federal, state, local, and municipal laws and regulations;
3. ensure that the ARCP is adequately funded and fiscally sound;
4. review and approve the ARCP's annual budget;
5. designate a person to act as administrator and delegate sufficient authority to this person to manage the facility;

- a. a sole owner may be the administrator;
- 6. formulate and annually review, in consultation with the administrator, written policies concerning the provider's philosophy, goals, current services, personnel practices, job descriptions and fiscal management;
- 7. annually evaluate the administrator's performance (if a sole owner is not acting as administrator);
- 8. have the authority to dismiss the administrator (if a sole owner is not acting as administrator);
- 9. meet with designated representatives of the department whenever required to do so; and
- 10. inform designated representatives of the department prior to initiating any substantial changes in the services provided by the provider.

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### **§6829. Policy and Procedures**

A. An ARCP shall provide continuous 24-hour supervision and services that:

- 1. conform to department rules and regulations;
- 2. meet the needs of the residents of the facility;
- 3. provide for the full protection of residents' rights; and
- 4. promote the social, physical, and mental well being of residents.

B. An ARCP shall make any required information or records and any information reasonably related to assessment of compliance with these requirements available to the department.

C. An ARCP shall allow designated representatives of the department in performance of their mandated duties to:

- 1. inspect all aspects of an ARCP's operations which directly or indirectly impact residents; and
- 2. conduct interviews with any staff member or resident of the facility.

D. An ARCP shall, upon request by the department, make available the legal ownership documents.

E. The ARCP shall have written policies and procedures approved by the owner or governing body that address at a minimum the following:

- 1. confidentiality and security of files;
- 2. publicity and marketing;
- 3. personnel;
- 4. resident's rights;
- 5. grievance procedures;
- 6. resident's funds;
- 7. emergency preparedness planning procedures to include plans for evacuation and sheltering in place;
- 8. abuse and neglect;
- 9. Incidents and accidents;
- 10. admissions and discharge procedures;
- 11. medication management; and
- 12. pet policy.

F. Personnel Policies. An ARCP shall have written personnel policies that include:

- 1. a plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members;
- 2. written job descriptions for each staff position including volunteers;

3. policies which provide for staff, upon offer of employment, to have a health assessment as defined by the provider and in accordance with Office of Public Health guidelines;

4. an employee grievance procedure;

5. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment whether that abuse or mistreatment is done by another staff member, a family member, a resident, or any other person; and

6. a written policy to prevent discrimination.

G. The ARCP shall be fully operational for the business of providing ARCP services on a 24-hour basis, seven days per week and have required staff on duty at all times of operation.

H. An ARCP shall maintain in force at all times, at minimum, general and professional liability insurance policies and worker's compensation insurance.

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### **Subchapter C. Admission and Discharge Criteria**

#### **§6833. Admission**

A. Pre-admission/Screening. The ARCP shall provide applicant information on admission, services, cost, and policies/procedures.

1. This written information shall include, but is not limited to the following:

- a. the application process and the possible reasons for rejection of an application;
- b. types of residents suitable to the facility;
- c. services offered and allowed in the facility;
- d. facility's house rules;
- e. fee structure; and
- f. discharge criteria

2. The ARC shall complete and maintain a comprehensive assessment of the applicant prior to admission. This initial screening shall assess the applicant's needs and appropriateness for admissions and shall include the following:

- a. the resident's physical and mental status;
- b. the resident's need for personal services;
- c. the resident's need for assistance with instrumental activities of daily living; and
- d. the resident's ability to evacuate the facility in the event of an emergency.

3. The pre-admission assessment shall be completed and dated before the contract/admissions agreement is signed.

B. Residents considered for admission may include those who need, or wish to have available for themselves or their spouse, room, board, personal care and supervision due to age, infirmity, physical disability or social dependency. The facility shall have a clear and specific written description of admission policies and procedures.

C. Prohibited Health Conditions. There are individuals who are not eligible for the ARCP program because their conditions and care needs are beyond the scope of the program's capacity to deliver nursing services and ensure health, safety, and welfare. ARCPs may not accept residents

with such conditions. These prohibited health conditions include:

1. stage 3 or stage 4 pressure sores (pressure ulcers);
2. nasogastric tubes;
3. ventilator dependency;
4. BiPap dependency without the ability to self-administer at all times (BiPap is a non-invasive form of mechanical ventilation);
5. coma;
6. continuous IV/TPN therapy (TPN - Total Parental Nutrition is an intravenous form of complete nutritional sustenance);
7. wound vac therapy (A system that uses controlled negative pressure, vacuum therapy, to help promote wound healing.);
8. active communicable tuberculosis;
9. diagnosis of psychotic condition with history of violent behavior; or
10. restraints except as permitted in these standards.

D. Time Limited Residency. ARCP residents with a prohibited condition may remain in residence on a time limited basis under the following conditions:

1. a licensed medical practitioner has certified that the condition is time limited and not permanent; and
  - a. the ARCP is prepared to deliver the additional services or coordinate, collaborate or contract with providers who may enter the ARCP to meet time limited needs.
2. Time limited is defined as 90 days, except in the case of a resident approved for or currently receiving hospice services.

E. Admission Agreement. The ARCP shall complete and maintain individual written admission agreements with all persons admitted to the facility or with their legally responsible person or persons.

1. The facility contract/admissions agreement shall specify the following:
  - a. clear and specific occupancy criteria and procedures (admission, transfer, and discharge);
  - b. basic services provided;
  - c. optional services;
  - d. payment provisions for both basic and optional services, including the following:
    - i. service packages and "a' la carte" services;
    - ii. regular and extra fees;
    - iii. payer; and
    - iv. due date;
  - e. procedures for the modification of the admission agreement, including provision of at least 30 days prior written notice to the resident of any basic rate change;
  - f. refund policy;
  - g. general facility policies which are for the purpose of making it possible for residents to live together, including policies and rules regarding third-party providers arranged by the resident (the use of private duty nurses or assistants);
  - h. division of responsibility between the facility, the resident, family, or others (e.g., arranging for or overseeing medical care, purchase of essential or desired supplies, emergencies, monitoring of health, handling of finances);
  - i. residents' rights; and
  - j. grievance procedure process.

2. The ARCP shall allow review of the contract/admissions agreement by an attorney or other representative chosen by the resident.

3. The admissions agreement shall be signed by the administrator and by the resident or personal representative.

4. The admissions agreement shall conform to all relevant federal, state and local laws and requirements.

F. At the time of admission the ARCP shall:

1. obtain from the resident or the resident's legal representative or legal guardian, their plan for both routine and emergency medical care which shall include:

- a. the name of physician(s); and
- b. provisions and authorization for emergency medical care;

2. provide the resident with a copy of the facility's emergency and evacuation procedures; and

3. provide the resident with a copy of the house rules.

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### **§6835. Negotiated Risk Agreements**

A. An ARCP may have a strategy to manage risks to the participants' health, safety and welfare. For ARCP providers, negotiated risk means the process of balancing resident choice and independence with the health and safety of the resident and other persons in the facility or program. If a resident's preference or decision places the resident or others at risk or is likely to lead to adverse consequences, such risks or consequences are discussed with the resident and with a resident representative upon consent of the resident. A formal plan to avoid or reduce negative or adverse outcomes shall be developed.

B. Negotiated risk agreements may not be necessary for residents who develop prohibited health conditions that are time limited; although providers may enter into negotiated risk agreements with these residents at their discretion.

C. Key elements of ARCP negotiated risk agreements are elements that identify conflicts between the ARCP and the participant. The key elements should include:

1. a statement of the consumer or legal representative's preference with respect to the identified risk issue;

2. a statement of the provider's perspective on the issue including a description of the provider policies, practices, and professional recommendations that conflict with the consumer's preferences; and

3. a statement of the perspective of the consumer's support team that participated in the development of the service plan.

a. This area must precisely define the conflict and source (i.e., licensure concern, etc.).

D. The document should frame a discussion for the risks and alternatives by providing:

1. an overview of possible risks of the participant or legal guardian's preferred action;

2. description of alternative actions that the ARC is more comfortable with;

3. documentation that the participant or legal guardian understands the risks and alternatives; and

4. language that the participant and/or legal representative has the right and opportunity to seek professional advice from legal counsel or medical professionals before signing the risk agreement.

E. The document should provide for implementation of the agreed upon actions to minimize risks by providing:

1. clear easily understood language mapping out the agreement between the participant and the ARCP including terms, conditions, expectations, and responsibilities framing the participant's behavior once he or she moves into the ARCP; and

2. the participant or legal guardian's release of any claim against the ARCP for any participant injuries related to behaviors mapped out in the agreement.

F. Risk agreements must be reviewed with the resident at least every six months or more frequently as issues arise. Long-term care ombudsmen offices may be involved as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2591 (December 2008).

### **§6837. Discharge**

#### **A. Voluntary Discharge**

1. The resident shall give 30 days written calendar notice to the facility of their intent to vacate the facility.

2. If the resident vacates the facility prior to the stated exit date, rent is not due back to the individual.

#### **B. Involuntary Transfer/Discharge and Emergency Transfer**

1. The resident has the right to remain in the facility and not be transferred or discharged unless one of the following occurs:

a. the resident's mental or physical condition deteriorates to a level requiring services that cannot be provided in an ARCP;

b. the resident's needs cannot be met by the facility and the transfer or discharge is necessary for the resident's welfare;

c. the resident's health has improved sufficiently so that he no longer needs the services provided by the facility;

d. the safety of other residents or staff in the facility is endangered;

e. the health of other residents or staff in the facility would otherwise be endangered;

f. the resident has a prohibited condition as defined in these provisions, unless the condition is time limited or the resident is approved for an currently receiving hospice services;

i. a resident with such a prohibited condition shall not be permitted to remain in an ARCP, regardless of whether the resident is willing to execute a negotiated risk agreement relieving the ARCP of the responsibility attendant to the resident's continued placement;

g. the resident or his legal representative refuses to enter into a negotiated risk agreement, refuses to revise the agreement when there is a documented medical reason for the need of a managed risk agreement or revision thereto, or refuses to comply with the terms of the negotiated risk agreement;

h. the resident or his legal representative refuses to cooperate in an examination by the physician or advance

practice nurse or licensed psychologist of his own choosing to determine the resident's health or mental status for the purpose of establishing appropriateness for continuation of residency or discharge.

i. the resident has failed, after 30 days written notice, to pay or have paid for a stay at the facility; or

j. the facility ceases to operate.

2. The resident and his legal representative, and interested family member if such is known and available, shall be notified in writing of the discharge or transfer.

a. The written notice shall be in a language and in a manner that the resident and his legal representative and interested family member understand.

b. The written notice of the transfer or discharge must be given no less than 30 days in advance of the proposed transfer or discharge. However, notice may be given as soon as practicable if an emergency condition exists whereby the continued stay of the resident will constitute a direct threat of serious harm, serious injury or death to the resident, another resident, or staff.

c. In facilities not certified to provide services under Title XVIII or Title XIX of the Social Security Act, the advance notice period may be shortened to 15 days for nonpayment of a bill for a stay at the facility.

3. The resident, his legal representative or interested family member, if known and available, shall have the right to appeal any transfer or discharge to the department, which shall provide a fair hearing in all such appeals.

4. The ARCP shall ensure that the transfer or discharge is effectuated in a safe and orderly manner.

5. The resident and his legal representative, and interested family member(s) shall be consulted in the discharge or transfer planning, and shall be consulted in choosing another facility if facility placement is required.

a. The ARCP shall provide a written discharge plan describing how it will assist in the relocation of the resident or in securing another provider to meet the resident's needs.

6. If an emergency condition exists whereby the continued stay of the resident will constitute a direct threat of serious harm, serious injury or death to the resident, another resident, or staff, the ARCP may immediately transfer the resident to a setting appropriate to the resident's medical needs.

a. Under no circumstance shall a resident be transferred to a setting that does not meet the needs of that resident.

b. An emergency transfer does not necessarily constitute discharge. Required notice shall be provided if the resident will be discharged.

c. If the facility effects an emergency transfer, the facility shall document the nature of the emergency and the need for the transfer.

d. If the facility effects an emergency transfer, the facility shall contact the resident's legal representative and shall contact the resident's interested family member(s), if known and available. Contact shall be made before the transfer if possible, and shall be made as soon as possible after the transfer if prior contact is not possible.

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## **Subchapter D. ARCP Services**

### **§6839. General Provisions**

A. Adult residential care services are a coordinated array of supportive personal services, 24-hour supervision and assistance, both scheduled and unscheduled assistance, activities, and health related services designed to accommodate an individual resident's changing needs and preference. Adult residential care includes, but is not limited to the following services:

1. lodging;
2. meals;
3. medication administration;
4. intermittent nursing services;
5. assistance with personal hygiene;
6. assistance with transfers and ambulation;
7. assistance with dressing;
8. assistance with transportation;
9. housekeeping;
10. laundry;
11. social activities;
12. direct care services;
13. health care services; and
14. twenty-four hour supervision and care.

B. An admission assessment shall be completed within three business days of admission to determine the service needs and preferences of the resident. This assessment shall be kept in the resident's record.

C. Within seven days after admission, the ARCP provider with input from the resident and/or his/her personal representative shall develop a service plan using information from the admission assessment. The service plan shall include:

1. the services required to meet the resident's needs;
2. the scope, frequency, and duration of services;
3. monitoring that will be provided; and
4. who is responsible for providing the services, including contract or arranged services.

D. The service plan shall be monitored on an ongoing basis to determine its continued appropriateness and to identify when a resident's condition or preferences have changed.

1. A documented review of the service plan shall be made at least every quarter. However, changes to the plan may be made at any time, as necessary.

E. All plans, reviews and updates shall be signed by the resident, facility staff, and the legal representative, if applicable.

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### **§6841. Personal and Supportive Services**

A. An ARCP shall provide, make available, coordinate, or contract for services to meet a resident's personal and health care needs as identified in his/her service plan, to meet unscheduled care needs, and to make emergency assistance available 24 hours a day. These services must be provided in a manner that does not pose an undue hardship on residents.

1. An ARCP shall respond to changes in residents' needs for services by revising the service plan and, if

necessary, by adjusting its staffing plan or contracting for services from other providers.

2. The facility shall provide adequate services and oversight/supervision including adequate security measures, around the clock as needed for any resident.

B. The facility shall provide or coordinate, to the extent needed or desired by residents, the following services:

1. assistance with all activities of daily living and instrumental activities of daily living;

2. at a minimum, three varied, appetizing meals a day, seven days a week that take into account the residents' preferences and needs;

3. basic personal laundry services;

a. Each ARCP provider shall offer laundry facilities or services to its residents. For those residents who are not able to launder their own personal items, the facility shall include this service as part of the service package.

b. The facility may provide this service for free or for an additional fee and shall be indicated as such in the occupancy admission agreement.

4. opportunities for individual and group socialization and to utilize community resources to create a normal and realistic environment for community interaction within and outside of the ARCP (i.e. barber/beauty services, social/recreational opportunities);

5. services for residents who have behavior problems requiring ongoing staff support, intervention, and supervision to ensure no danger or infringement of the rights of other residents or individuals;

6. transportation either provided or arranged by the ARCP;

7. household services essential for the health and comfort of the resident (i.e. floor cleaning, dusting, bed making, etc.);

8. assistance with self-administration of medication by appropriately trained unlicensed staff and administration of medications as necessary by licensed nursing staff;

9. a program of recreational activities;

10. assistance with cognitive orientation and behavioral management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2593 (December 2008).

### **§6843. Medication Administration**

A. The ARCP shall have clear written policies and procedures on medication administration to include staff administration and self-administration, including appropriate documentation regarding both practices.

B. The ARCP shall assist residents in the self-administration of prescriptions and non-prescription medication as agreed to in their contract or service plan and as allowed by state laws and regulations.

C. Assistance with self-administration of medication shall be limited to the following.

1. The resident may be reminded to take his/her medication.

2. The medication regimen, as indicated on the container, may be read to the resident.

3. The dosage may be checked according to the container label.

4. Staff may open the medicine container (i.e. bottle, mediset, blister pack, etc.) if the resident lacks the ability to open the container.

5. The resident may be physically assisted in pouring or otherwise taking medications, so long as the resident is cognitive of what the medication is, what it is for, and the need for the medication.

a. If the resident does not meet this standard for cognitive awareness, any assistance with respect to the resident's medication regimen (outside of a medication reminder) must be delivered by licensing nursing personnel.

D. If desired by the resident, the resident's family, other relatives, or the resident's personal representative may transfer medication from the original container to a medication reminder container (pill organizer box).

E. An employee that provides assistance with the self-administration of medications to a resident shall have documented training on the policies and procedures for medication assistance including the limitations of this assistance. Documentation shall include the signature of the employee. This training shall be repeated at least annually.

F. Medications may be stored in the resident's own living unit/room or in a secure central location.

1. Residents who do not require assistance with self-administration of medications shall be allowed to keep prescription and non-prescription medications in their living unit/room as long as they keep them secured from other residents.

2. If a resident requires assistance with self-administration of medication and the medication is kept in a secure central area, the facility shall:

a. handle the medication in the same manner as if it were kept in the resident's living unit/room; and

b. assure that medications shall be delivered to the individual resident at the appropriate time regardless of where the resident may be in the facility.

i. Residents shall not be required to come to a "medication" area to receive medications.

G. If a resident requires medication administration by staff, medication must be administered by a licensed nurse, either an RN or LPN.

1. Intravenous (IV) medications are permitted only on a time limited basis and must be administered by an RN.

H. Registered nurses will review medication regimens and administration charting bi-weekly, at a minimum, as part of the adult residential care benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2593 (December 2008).

#### **§6845. Health Related Services**

A. Each resident shall have the right to control his/her receipt of health related services including, but not limited to:

1. the right to retain the services of his/her own personal physician, dentist or other health care provider;

2. the right to confidentiality and privacy concerning his/her medical and dental condition and treatment; and

3. the right to select the pharmacy or pharmacist of their choice.

B. The ARCP shall plan or arrange, in conjunction with the resident, the resident's family and/or representative, for the following:

1. health assessment;

2. assistance with health tasks as needed or requested by the resident; and

3. healthcare monitoring.

a. Healthcare monitoring consists of a regularly occurring process designed by the facility to identify changes in a resident's healthcare status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2594 (December 2008).

#### **§6847. Transportation**

A. The provider shall provide or arrange transportation for:

1. all medical services, including ancillary services for medically-related care (e.g. physician, pharmacist, therapist, podiatrist);

2. personal services, including barber/beauty services;

3. personal errands; and

4. social/recreational opportunities.

B. Transportation shall be provided for or arranged on a routine basis for reasonable transportation for personal services, errands and social/recreational opportunities. For non-routine transportation, the resident may be charged additional fees provided that the resident is notified in writing in advance and agrees to such charges.

C. The ARCP shall ensure and document that any vehicle used in transporting residents, whether such vehicles are operated by a staff member or any other person acting on behalf of the provider, is inspected and licensed in accordance with state law. The ARCP shall also have current commercial liability insurance in an amount sufficient to ensure payment of any resident losses resulting from that transportation, including uninsured motorist coverage.

D. When transportation services are provided by the facility, whether directly or by third party contract, the provider shall document and ensure that drivers have a valid Louisiana driver's license, and that they are trained/experienced in assisting residents.

E. Vehicles need to be handicapped accessible or so equipped to meet the needs of residents served.

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HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2594 (December 2008).

#### **§6849. Food and Nutrition**

A. The facility shall prepare, at a minimum, 3 meals each day.

B. The ARCP shall make reasonable accommodations, as stated in the resident's service plan for the residents to:

1. meet dietary requirements;

2. meet religious and ethnic preferences;

3. meet the temporary need for meals delivered to the resident's room;

4. meet residents' temporary schedule changes as well as residents' preferences (e.g. to skip a meal or prepare a simple late breakfast); and

5. make snacks, fruits and beverages available to residents daily.

C. The facility's menus, at a minimum, shall be reviewed and approved by a nutritionist or dietician to assure their nutritional appropriateness for the setting's residents.

1. Menus shall be planned and written at least one week in advance and dated as served. The current week's menu shall be posted in one or more prominent place(s) in the facility.

2. The ARCP shall furnish medically prescribed diets to all residents for which it is designated in the service plan.

3. The menus shall be planned or approved by a registered licensed dietician.

4. Records of all menus as serviced shall be kept on file for at least 30 days.

5. All substitutions made on the master menu shall be recorded in writing.

D. All food in the facility shall be safe for human consumption. Grade "A" pasteurized fluid milk and fluid milk products shall be used or served. Dry milk products may not be used, except for cooking purposes.

E. All food preparation areas (excluding areas in residents units) shall be maintained in accordance with state and local sanitation and safe food handling standards. Pets are not allowed in food preparation and serving areas.

1. If food is prepared in a central kitchen and delivered to separate facilities, provision shall be made and approved by the Department of Health and Hospitals, Office of Public Health for proper maintenance of food temperatures and a sanitary mode of transportation.

2. Foods shall be prepared and served in a way that assures that they are appetizing, attractive, and nutritional and that promotes socialization among the residents.

3. Foods shall be prepared by methods that conserve the nutritive value, flavor and appearance. It shall be palatable, properly prepared and sufficient in quantity and quality.

F. The facility's refrigerator(s) shall be maintained at a temperature of 45 degrees Fahrenheit or below. Thermometers shall be provided for all refrigerators and freezers. Food stored in the refrigerator shall be covered.

G. The water supply shall be adequate, of a safe sanitary quality and from an approved source. Clean sanitary drinking water shall be available and accessible in adequate amounts at all times. Disposable cups, if used, shall be stored in such a way as to prevent contamination.

H. The ice scoop for ice machines shall be maintained in a sanitary manner with the handle at no time coming in contact with the ice.

I. Poisonous and toxic materials shall be identified and placed in cabinets which are used for no other purpose.

J. Staff shall be available in the dining area to serve the food and to give individual attention as needed.

K. Specific times for serving meals shall be established and posted.

L. Written reports of inspections by the Department of Health and Hospitals, Office of Public Health shall be kept on file in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2594 (December 2008).

## **§6851. Alzheimer Special Care Units**

### **A. Scope and Purpose**

1. Adult Residential Care providers may establish separate and distinct units to meet the needs of residents with Alzheimer's disease or related dementias. Such programs shall provide individualized care based upon assessment of the cognitive and functional abilities of Alzheimer's and dementia residents who have been admitted to the program.

### **B. Alzheimer's/Dementia Program Policies and Procedures**

1. An ARCP that advertises or markets itself as an Alzheimer's Special Care Unit (ASCU) shall have written policies and procedures for the Alzheimer's/Dementia Program that are retained by the administrative staff and available to all staff and to members of the public, including those participating in the program.

2. The ARCP shall have established criteria for admission to the program and criteria for discharge from the program when the resident's needs can no longer be met, based upon a registered professional nurse's assessment of the resident's cognitive and functional status.

C. Staff Training for Alzheimer's/Dementia Program. In an ARCP that advertises or markets itself as an ASCU, training in specialized care of residents who are diagnosed by a physician as having alzheimer's/dementia shall be provided to all licensed and unlicensed staff who provide direct care to such residents.

D. Services for Residents with Alzheimer's/Dementia. An ARCP that advertises or markets itself as an ASCU shall provide a member of the public seeking placement of a person diagnosed with alzheimer's and/or related disorders in the facility with a clear and concise written list that includes:

1. The activities that are specifically directed toward residents diagnosed with alzheimer's and related disorders, including, but not limited to, those designed to maintain the resident's dignity and personal identity, enhance socialization and success, and accommodate the cognitive and functional ability of the resident;

2. The frequency of the activities that will be provided to such residents; and

3. The safety policies and procedures and any security monitoring system that is specific to residents diagnosed with alzheimer's and related disorders.

E. An ARCP that advertises or markets itself as an ASCU shall provide a secured exterior area for residents to enjoy the outdoors in a secure manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2595 (December 2008).

## **Subchapter E. Resident Protection**

### **§6855. Resident Rights**

A. A provider shall have a written policy on residents' civil rights and shall post and distribute a copy of those civil rights. The practices of the provider shall assure that:

1. no resident of an ARCP facility shall be deprived of civil or legal rights, benefits or privileges guaranteed by the Constitution of the United States or the Constitution of the State of Louisiana solely by reason of status as a resident of an ARCP facility;

2. no resident shall be denied admission, segregated or otherwise subjected to discrimination on the basis of race, sex, handicap, religion, creed, national background or ancestry;

3. a religious organization may not limit admissions to its own adherents; and

4. residents shall live within the least restrictive environment possible in order to retain their individuality and personal freedom.

B. In addition to being entitled to the basic rights enjoyed by other adults, the ARCP's written policy on rights shall assure that residents have the right to:

1. be treated as individuals and with dignity, be assured choice and privacy and the opportunity to act autonomously, take risks to enhance independence and share responsibility for decisions;

2. participate and have family participate, if desired, in the planning of activities and services;

3. receive care and services that are adequate, appropriate, and in compliance with conditions of residency, relevant federal and state laws, rules and regulations and the right to refuse such care and services;

4. receive upon admission, and during his or her stay, a written statement of the services provided by the facility and the charges for these services;

5. be free from mental, emotional, and physical abuse and neglect and be free from chemical or physical restraints used for the purposes of convenience or discipline;

6. have records and other information about the resident kept confidential and released only with a resident's expressed written consent or as required by law;

7. expect and receive responsiveness regarding requests (service, information, etc.) from the administrator and/or staff;

8. to contract to a third-party provider for ancillary services for medically related care (e.g., physician, pharmacist, therapy, podiatry, hospice, and barber or beauty services) and other services necessary as long as the resident remains in compliance with the conditions of residency;

9. have visitors of their choice without restrictions, as long as the rights of others are not infringed upon;

10. have access to private telephone communication;

11. send and receive mail promptly and confidentially;

12. furnish their own rooms and use and maintain personal clothing and possessions as space permits;

13. manage his or her personal funds unless such authority has been delegated to another;

14. are notified in writing by the provider when the ARCP's license status is modified, suspended, revoked or denied renewal, and to be informed of the basis of the action;

a. the resident's legal representative must also be notified;

15. have freedom to participate by choice in community activities and in social, political, medical, and religious activities and to have freedom to refuse such participation;

16. arrange for third-party services at their own expense, that are not required to be provided by the facility, as long as the resident remains in compliance with the conditions of residency;

17. share a room with a spouse or other consenting adult upon their request;

18. residents shall be encouraged and assisted to exercise rights as a citizen; to voice grievances and suggest changes in policies and services to either staff, ombudsman or outside representative without fear of restraint, interference, coercion, discrimination, or reprisal;

19. be given written notice of not less than 30 days prior to discharge from the facility, except when an emergency condition exists whereby the continued stay of the resident will constitute a direct threat of serious harm, serious injury or death to the resident, another resident or staff;

20. remain in their room/living unit unless a change in room/unit is related to resident preference or to transfer conditions stipulated in their contract that relate to the need for higher levels of service;

21. be fully informed of all resident rights and all rules governing resident conduct and responsibilities;

22. consult freely with counsel of their choice;

23. live in a physical environment which ensures their physical and emotional security and well-being;

24. bring pets or service animals into the living units if allowed by the ARCP;

25. contact their advocates as provided by law;

26. voice grievances without discrimination or reprisal; and

a. Such grievances include those with respect to treatment that has been furnished as well as that which has not been furnished (The ARCP must make prompt efforts to resolve grievances the resident may have, including those with respect to the behavior of other residents).

C. Publicity. An ARCP shall have written policies and procedures regarding the photographing and audio or audiovisual recordings of residents. No resident shall be photographed or recorded without the resident's prior informed, written consent.

1. Such consent cannot be made a condition for admission into, remaining in, or participating fully in the activities of the facility.

2. Consent agreements must clearly notify the resident of his/her rights under this regulation, must specify precisely what use is to be made of the photograph or recordings, and are valid for a maximum of one year from the date of execution. Residents are free to revoke such agreements at any time, either orally or in writing.

3. All photographs and recordings shall be used in a way that respects the dignity and confidentiality of the resident.

D. Each resident shall be fully informed of these rights and of all rules and regulations governing residents' conduct and responsibilities, as evidenced by written acknowledgment, prior to or at the time of admission and when changes occur. Each resident's file shall contain a copy of the written acknowledgment, which shall be signed and dated by the administrator and the resident and/or his or her personal representative.

E. A copy of these rights shall be posted in a prominent location within the common areas of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2595 (December 2008).

#### **§6857. Restraints**

A. The agency must develop and implement written policies and procedures that govern the management of inappropriate behavior of persons receiving services. The policies and procedures must specify that any restraints used to manage inappropriate behavior ensures that the dignity of the individual is considered and that the intervention is the least restrictive method that can be used to effectively prevent injury to self or others.

1. Restraints are strictly prohibited for discipline or convenience of staff.

2. Interventions to manage inappropriate behavior must be employed with sufficient safeguards and supervision to ensure that safety, welfare and civil and human rights are protected.

B. Restraints used to manage inappropriate behavior must be part of a behavior support plan which is incorporated into the individual's ARCP service plan. The plan shall be based on a comprehensive functional assessment by a qualified professional. The plan shall include strategies to decrease or eliminate the interventions. Plans should include protocols to address emergency situations that include immediately contacting the resident's physician.

C. Prior to the use of any restraint on a resident, staff shall demonstrate competence in implementation and documentation.

D. Chemical restraints are used only with a physician's order.

E. If physical restraints or chemical restraints are used, the provider shall write a critical incident report and follow appropriate reporting procedures.

F. The resident and his/her personal representative shall be contacted within 24 hours of the initiation of the restrictive intervention.

G. The agency shall track and trend the use of restraints on each resident. This shall be done yearly at a minimum or if there is a significant change in an individual's condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2597 (December 2008).

#### **§6859. Resident Representation and Grievance Procedures**

A. Resident Association. The provider shall provide a formal process and structure by which residents, in representative groups and/or as a whole, are given the opportunity to advise the administrator regarding resident services and life at the facility. Any resident association requests, concerns or suggestions presented through this process will be addressed by the administrator within a reasonable time frame, as necessitated by the concern, request or suggestion.

B. Grievance Procedure. A provider shall establish and have written grievance procedures to include, but not limited to:

1. a formal process to present grievances;
2. a formal appeals process for grievances; and

3. a process to respond to residents and resident association requests and written grievances in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2597 (December 2008).

#### **§6861. Resident Personal Property**

A. Personal Possessions. The ARCP may, at its discretion, offer to residents the services of safekeeping of valuable possessions. The ARCP shall have a written statement of its policy.

1. If the ARCP offers such a service, a copy of the written policy and procedures shall be given to a resident at the time of his/her admission.

2. The ARCP shall give the resident a receipt listing each item that the ARCP is holding in trust for the resident. A copy of the receipt shall be placed in the resident's record.

##### **B. Resident Funds**

1. If an ARCP offers the service of safekeeping of residents' personal funds, the facility's admission agreement shall include the resident's rights regarding personal funds and list the services offered and charges, if any.

2. If an ARCP offers the service of safekeeping, and if a resident wishes to entrust funds, the ARCP:

a. shall obtain written authorization from the resident and/or his/her personal representative as to safekeeping of funds;

b. shall provide each resident with a receipt listing the amount of money the ARCP is holding in trust for the resident; and

c. shall maintain a current balance sheet containing all financial transactions to include the signatures of staff and the resident for each transaction.

3. The resident shall have the right to examine the account during business hours.

4. The resident shall have access through quarterly statements and, upon request, financial records if the ARCP has been delegated the responsibility for handling their financial affairs.

5. Once the ARCP receives the written authorization from the resident, it must safeguard and account for such personal funds under a system established and maintained by the ARCP. The ARCP shall have written policies and procedures to protect funds.

6. The ARCP must deposit any amount of personal funds in excess of \$50, with respect to the resident, in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts, and credit all interest earned on such separate account to such account.

7. The facility shall purchase a surety bond to assure the security of all personal funds of residents deposited with the facility.

C. Unless otherwise provided by state law, upon the death of a resident, the ARCP shall provide the executor or administrator of the resident's estate, or the representative of the resident, as agreed upon in the admission agreement with a complete accounting of all the resident's funds and personal property being held by the ARCP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2597 (December 2008).

## **Subchapter F. Provider Responsibilities**

### **§6863. General Provisions**

A. The ARCP shall have qualified staff sufficient in number to meet the scheduled and unscheduled needs of residents and respond in emergency situations. Sufficient support staff shall be employed or contracted to ensure provision of personal care services as required by care plans.

B. Additional staff shall be employed as necessary to perform office work, cooking, house cleaning, laundering, and maintenance of buildings, equipment and grounds.

1. The department may require any facility to provide additional staff whenever it determines that the needs of the particular residents, the extent of services provided, or the physical arrangements of the facility require such additional staff, or the provision of adequate services requires additional staff.

C. A staff member on each shift shall be trained in the use of cardio pulmonary resuscitation (CPR) and first aid.

D. Staff shall have sufficient communication and language skills to enable them to perform their duties and interact effectively with residents and staff.

E. The ARCP shall maintain a current work schedule for all employees, including relief workers, showing actual coverage for each 24-hour day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2598 (December 2008).

### **§6865. Staffing Requirements**

A. At a minimum the following staff positions are required; however, one person may occupy more than one position in the ARCP but shall not be in this position on the same shift/same day:

1. Administrator. Each facility shall have a qualified Administrator who is an on-site employee and is responsible for the day-to-day management, supervision, and operation of the facility.

a. If the ARCP is located at the same geographical site as a nursing home, the nursing home administrator may also serve as administrator for the ARCP, provided that individual is the administrator of record solely of that nursing facility.

b. One or more assistant administrators may be required, based upon the licensed capacity of the ARCP and the nursing home. The department may make a determination that one or more assistant administrators are necessary based upon one or both facilities' compliance histories.

c. During periods of temporary absence of the administrator, there shall be a responsible staff person designated to be in charge that has the knowledge and responsibility to handle any situation that may occur.

d. The administrator shall be at least 21 years of age and have the responsibility and authority to carry out the policies of the provider.

#### **2. Administrator Qualifications**

a. The administrator shall meet one of the following criteria upon date of hire:

i. a bachelor's degree plus two years of administrative experience in the fields of health, social services, or geriatrics; or

ii. in lieu of a degree, six years of administrative experience in health, social services, or geriatrics, or a combination of undergraduate education and experience for a total of six years; or

iii. a master's degree in geriatrics, health care administration, or in a human service related field; or

iv. be a licensed nursing facility administrator; and

b. Additionally, the administrator shall have successfully completed an administrator certification program consisting of 40 hours of training that has been approved by any one of the following organizations:

i. Louisiana Board of Examiners of Nursing Facility Administrators;

ii. Louisiana Assisted Living Association (LALA);

iii. Gulf States Association of Homes and Services for the Aging (GSASHA);

iv. Louisiana Nursing Home Association (LNHA);

or

v. any of the national assisted living associations, including the:

(a). American Association of Homes and Services for the Aging (AAHSA);

(b). National Center for Assisted Living (NCAL); or

(c). Assisted Living Federation of America (ALFA).

c. Training must be started within six months and completed within 12 months of being appointed administrator.

d. Two years of experience as an assisted living administrator may be substituted in lieu of the certification requirements.

e. Documentation of the administrator's qualifications shall be maintained on file at the facility.

B. Nursing Service Personnel. The facility shall provide a sufficient number of nursing service personnel consisting of registered nurses and licensed practical nurses to provide nursing care to all residents in accordance with resident service plans 24 hours per day.

1. Registered Nurse (RN). The facility shall employ or contract with at least one RN. The ARCP RN need not be physically present at all times at the facility but must be on call and readily accessible to the facility 24 hours a day.

a. The ARCP RN, in conjunction with the resident's physician, shall be responsible for the preparation, coordination and implementation of the health care services section of the resident's service plan.

b. The ARCP RN shall review and oversee all licensed practical nurses (LPNs), certified nursing assistants (CNAs) and direct care personnel.

c. The RN must be licensed by, and in good standing with, the state of Louisiana, and must comply with all requirements, including continuing education requirements, as established by law or regulation. No individual who is unlicensed may be employed as an RN.

2. Licensed Practical Nurses (LPN). The facility shall employ or contract with LPNs to meet the nursing needs of the clients.

a. LPNs may administer medication and deliver nursing services as provided by Louisiana law or applicable regulation.

b. All LPNs must be licensed by, and in good standing with, the state of Louisiana, and must comply with all requirements, including continuing education, as established by law or regulation. No individual who is unlicensed may be employed as an LPN.

3. The ARCP must have available a sufficient number of nursing service personnel consisting of a registered nurse and licensed practical nurses to provide nursing care to all residents in accordance with resident care to meet scheduled and unscheduled needs.

#### C. Essential Personnel

1. In general, an ARCP must ensure an adequate number of trained staff to meet the needs of the clients, including licensing nursing staff as necessary to meet the nursing needs of the clients.

2. Designated Recreational/Activity Staff. There shall be an individual designated to organize and oversee the recreational and social programs of the facility.

3. Direct Care Staff. Direct care staff may include nurses, certified nursing assistants, direct care workers, social workers, activities personnel, or other staff who clearly provide direct care services to residents on a regular basis. A direct care staff person who is not in the facility, but who is on call, shall not be included as direct care staff on any shift.

a. The ARCP shall demonstrate that sufficient direct care staff is scheduled and available (working) to meet the 24-hour scheduled and unscheduled needs of the residents.

b. Staff cannot fill two staff positions on the same shift at different licensed facilities.

c. The ARCP shall maintain a current work schedule for all employees, including relief workers, showing adequate coverage for each day and night.

4. Billing/Office Personnel. If the ARCP facility is part of a campus, billing and accounting office personnel may be shared among the separate facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2598 (December 2008).

#### §6867. Staff Training

A. All administrators must maintain 12 continuing education units per year. Topics shall include, but shall not be limited to:

1. geriatrics;
2. assisted living concepts;
3. specialty training in the population served; and/or
4. supervisory/management techniques.

B. All staff shall receive the necessary training to assure that they are competent to perform the duties that are assigned to them. All staff shall receive any specialized training as required by law.

C. An ARCP shall ensure that all direct care staff complete face-to-face training to ensure continuing competence. The training must be relevant to the population served and address areas of weakness as determined by the workers' performance reviews, and may address the special needs of residents.

1. Orientation and normal supervision shall not be considered for meeting this requirement on an annual basis.

D. Orientation for direct care staff shall include an additional five days of supervised training.

1. Training, at a minimum, shall include the following:

a. training on resident care services (ADLs & IADLs) provided by the facility;

b. infection control to include blood borne pathogens;

c. any specialized training to meet residents' needs; and

d. any specialized training required by law.

2. A new employee shall not be given sole responsibility for the implementation of a client's program plan until this training is completed.

3. All direct care staff shall receive certification in adult first aid and CPR within the first 30 days of employment.

4. The employee shall sign a statement of understanding certifying that such training has occurred.

#### E. Annual Training

1. A provider shall ensure that each direct care worker participates in in-service training each year. The training shall be relevant to the population served and address areas of weakness as determined by the worker's performance reviews and may address the special needs of residents.

a. Normal supervision shall not be considered for meeting this requirement.

2. The provider shall document that direct care staff receive training on an annual basis in:

a. the facility's policies and procedures;

b. emergency and evacuation procedures;

c. resident's rights;

d. procedures and legal requirements concerning the reporting of abuse and critical incidents;

e. resident care services (ADLs & IADLs);

f. infection control to include blood borne pathogens; and

g. any specialized training to meet residents' needs.

3. All direct care staff shall have documentation of current certification in first aid and CPR.

4. The staff member shall sign a statement certifying that such training has occurred.

5. Orientation and five days of supervised training may qualify as the first year's annual training requirements.

F. All staff and facility contracted providers having direct contact with residents, as well as all food service personnel, shall receive orientation and training on the following topics within seven calendar days of hire:

1. building safety and emergency measures, including safe operation of fire extinguishers and evacuation of residents from the building;

2. emergency preparedness procedures;

3. sanitation and food safety;

4. resident health and related problems;

5. general overview of the job's specific requirements;

6. philosophy and principles of independent living in an adult residential care residence;

7. residents' Bill of Rights;

8. restraint policies and procedures; and

9. abuse and neglect reporting;

### G. Third-Party Providers

1. A general facility orientation and review of house rules is required to be provided for third-party providers entering the building to serve residents.

### H. General Emergency Preparedness Training

1. All employees shall be trained in procedures to be followed in the event of any emergency situations. All employees shall be instructed in the use of fire-fighting equipment and resident evacuation as part of their initial orientation and at least annually thereafter. The ARCP shall instruct all employees on the emergency evacuation procedures. The ARCP shall review the procedures with existing staff at least once in each 12-month period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2599 (December 2008).

### §6869. Record Keeping

A. Administrative Records. The ARCP shall have an administrative record that includes:

1. the articles of incorporation or certified copies thereof, if incorporated, bylaws, operating agreements, or partnership documents, if applicable;
2. the written policies and procedures approved by the owner/governing body that address the requirements listed in this Subchapter;
3. the minutes of formal governing body meetings;
4. the organizational chart of the ARCP;
5. all leases, contracts, and purchase of service agreements to which the ARCP is a party, which includes all appropriate credentials;
6. insurance policies; and
7. copies of incident/accident reports.

B. Personnel Records. An ARCP shall maintain a personnel record for each employee. At a minimum, this file shall contain the following:

1. the application for employment, including the resume of education, training, and experience, if applicable;
2. a criminal history check, prior to an offer of employment, in accordance with state law;
3. evidence of applicable professional or paraprofessional credentials/certifications according to state law;
4. documentation of any state or federally required medical examinations or medical testing;
5. employee's hire and termination dates;
6. documentation of orientation and annual training of staff;
7. documentation of driver's license (if driving or transporting residents);
8. documentation of reference checks; and
9. annual performance evaluations.
  - a. An employee's annual performance evaluation shall include his/her interaction with residents, family, and other providers.

C. Resident Case Records. An ARCP shall maintain a separate record for each resident. Such record shall be current and complete and shall be maintained in the facility in which the resident resides and readily available to facility staff and department staff. Each record shall contain at least the following information:

1. resident's name, marital status, date of birth, sex, Social Security number, and previous home address;
2. dates of admission and discharge;
3. names, addresses, and telephone numbers of personal representative to be notified in case of accident, death, or other emergency;
4. name, address, and telephone number of a physician and dentist to be called in an emergency;
5. ambulatory status;
6. resident's plan/authorization for routine and emergency medical care;
7. the pre-admission appraisal and admission agreement;
8. reports of assessment and of any special problems or precautions;
9. individual service plan, updates, and quarterly reviews;
10. continuing record of any illness, injury, or medical or dental care when it impacts the resident's ability to function or impacts the services he or she needs;
11. a record of all personal property and funds which the resident has entrusted to the facility;
12. reports of any resident complaints or grievances and the conclusion or disposition of these reports;
13. written acknowledgment that the resident has received clear verbal explanation and copies of his/her rights, the house rules, written procedures for safekeeping of his/her valuable personal possessions, written statement explaining the his/her rights regarding personal funds, and the right to examine his/her record; and
14. the following discharge information:
  - a. date of discharge;
  - b. destination; and
  - c. reason(s) for discharge.

D. Maintenance and Storage of Records. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of in accordance with state laws. An ARCP shall have sufficient space, facilities, and supplies for providing effective storage of records. The facility must maintain the resident's records in the following manner.

1. Each resident shall have the right to inspect his or her records during normal business hours in accordance with state and federal law.
2. The facility must not disclose any resident records maintained by the facility to any person or agency other than the facility personnel, law enforcement, the department, or the attorney general's office, except upon expressed written consent of the resident or his or her legal representative, or when disclosure is required by state or federal law or regulations.
3. The facility must maintain the original records in an accessible manner for a period of five years following the death or discharge of a resident.
4. The original resident records, while the resident lives at the facility, shall be kept on the facility premises at all times, unless removed pursuant to subpoena.
5. In the event of a change of ownership, the resident records shall remain with the facility.
6. If the facility closes, the owner of the facility within the state of Louisiana shall store the resident records for five years.

7. The facility shall take reasonable actions to protect the resident records from destruction, loss, or unauthorized use.

E. Confidentiality and Security of Records

1. The ARCP shall have written procedures for the maintenance and security of records specifying:

- a. who shall supervise the maintenance of records;
- b. who shall have custody of records; and
- c. to whom records may be released.

2. The facility shall safeguard clinical record information against loss, destruction, or unauthorized use.

3. The ARCP shall ensure the confidentiality of all resident records, including information in a computerized record system, except when release is required by transfer to another health care institution, law, third-party payment contractor, or the resident. Information from, or copies of, records may be released only to authorized individuals, and the ARCP must ensure that unauthorized individuals cannot gain access to or alter resident records.

4. Employees of the facility shall not disclose or knowingly permit the disclosure of any information concerning the resident or his/her family, directly or indirectly, to any unauthorized person.

5. The ARCP shall obtain the resident's, and personal representative's written, informed permission prior to releasing any information from which the resident or his/her family might be identified, except to the department. Identification information may be given to appropriate authorities in case of an emergency.

6. The ARCP may use material from records for teaching and research purposes if names are deleted and other identifying information is disguised or deleted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2600 (December 2008).

**§6871. Incident and Accident Reports**

A. An ARCP shall have written procedures for the reporting and documentation of accidents, incidents and other situations or circumstances affecting the health, safety or well-being of a resident or residents.

B. An ARCP shall report to the department any incidents suspected of involving:

1. abuse;
2. neglect;
3. misappropriation of personal property; or
4. injuries of unknown origin.

a. Injuries of unknown origin are defined as:

i. the source of the injury was not observed by any person or the source of the injury could not be explained by the resident; and/or

ii. the injury is suspicious because of the extent of the injury or the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma).

C. The initial report of the incident or accident is due within 24 hours of occurrence or discovery of the incident.

D. After submission of the 24-hour report, if additional time is needed to complete the investigation, a final report must be submitted within five working days regardless of the outcome.

E. Incident/Accident Report. When and if an incident occurs, a detailed report of the incident shall be made. As a minimum, the incident report shall contain the following:

1. circumstances under which the incident occurred;
2. date and time the incident occurred;
3. where the incident occurred (bathroom, unit, room, street, lawn, etc);
4. immediate treatment and follow-up care;
5. name and address of witnesses;
6. date and time family or representative was notified;
7. symptoms of pain and injury discussed with the physician; and
8. signatures of the staff completing the report and administrator.

F. When an incident results in death of a resident, involves abuse or neglect of a resident, or entails any serious threat to the resident's health, safety or well-being, an ARC administrator or designee shall:

1. immediately report verbally to the administrator and submit a preliminary written report within 24 hours of the incident to the department;

2. immediately notify DHH-Adult Protection Services, DHH/HSS, and other appropriate authorities, according to state law, in addition submit a written notification to the above agencies within twenty-four hours of the suspected incident;

3. immediately notify the family or representative of the resident, in addition, submit a written notification within 24 hours;

4. immediately notify the appropriate law enforcement authority in accordance with state law;

5. take appropriate corrective action to prevent future incidents and provide follow-up written report to all the above persons and agencies; and

6. the ARCP shall document its compliance with all of the above procedures for each incident, and shall keep such documentation (including any written reports or notifications) in the resident's file. A separate copy of all such documentation shall be kept in the provider's administrative file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2601 (December 2008).

**§6873. Compliance with Alzheimer's Special Care**

**Disclosure Law**

A. Any ARCP which offers to provide a special program for persons with alzheimer's disease or a related disorder by means of an alzheimer's special care unit shall disclose the form of care or treatment provided that distinguishes it as being especially applicable to or suitable for such persons.

1. Disclosure shall be made to the department and to any person seeking ASCU placement on behalf of a person with alzheimer's disease or a related disorder.

2. Information disclosed shall explain additional care provided in each of the following areas:

- a. philosophy and mission;
- b. pre-admission criteria;
- c. admission and discharge criteria;
- d. assessment;

- e. care planning and implementation;
- f. staffing patterns and training;
- g. physical environment;
- h. resident activities;
- i. family role in care; and
- j. program fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2601 (December 2008).

### **Subchapter G. Emergency Preparedness**

#### **§6875. Emergency Preparedness Plan**

A. The ARCP shall have an emergency preparedness plan designed to manage the consequences of medical emergencies, power failures, fire, natural disasters, declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its emergency preparedness plan in the event or occurrence of a disaster or emergency.

B. Upon the department's request, a facility shall present its emergency preparedness plan for review. At a minimum, the emergency preparedness plan shall include and address the following:

1. The emergency preparedness plan shall be individualized and site specific. All information contained in the plan shall be current and correct. The plan shall be made available to representatives of the Office of the State Fire Marshal and the Office of Public Health upon request of either of these offices. The facility's plan shall follow all current applicable laws, standards, rules or regulations.

2. The facility's plan shall be submitted to the parish or local Office of Homeland Security and Emergency Preparedness (OHSEP) yearly and verification of this submittal maintained in the plan. Any recommendations by the parish or local OHSEP regarding the facility's plan shall be documented and addressed by the ARCP.

3. The facility's plan shall contain census information, including transportation requirements for the ARCP residents as to the need for:

- a. wheelchair accessible or para-transit vehicle transport; or
- b. the numbers of ARCP residents that do not have any special transport needs.

4. The plan shall contain a clearly labeled and legible master floor plan(s) that indicate the following:

- a. the areas in the facility, either in the resident's individual unit or apartment or the ARCP facility, that is to be used by residents as shelter or safe zones during emergencies;
- b. the location of emergency power outlets (if none are powered or all are powered, this shall be stated on the plan);
- c. the locations of posted, accessible, emergency information;
- d. the plan shall provide for floor plans or diagrams to be posted in each resident's room and shall clearly indicate that specific room or apartment's location, the fire exits, the fire evacuation routes, locations of alarm boxes and fire extinguishers, and written fire evacuation procedures shall be included on one plan; and

i. A separate floor plan or diagram with safe zones or sheltering areas for non fire emergencies shall indicate areas of building, apartments, or rooms that are designated as safe or sheltering areas;

e. the detail of what will be powered by emergency generator(s), if applicable.

C. The facility's plan shall be viable and promote the health, safety and welfare of the facility's residents. If the plan is found to be deficient the facility shall, within 10 days of notification, respond with an acceptable plan of correction to amend its emergency preparedness plan.

D. The facility will work in concert with the local OHSEP or Office of Emergency Preparedness (OEP) in developing plans.

E. The facility shall provide a plan for monitoring weather warnings and watches and evacuation orders from local and state emergency preparedness officials. This plan will include:

- 1. who will monitor;
- 2. what equipment will be used; and
- 3. procedures for notifying the administrator or responsible persons.

F. The plan shall provide for the delivery of essential care and services to residents during emergencies, who are housed in the facility or by the facility at another location, during an emergency.

G. The plan shall contain information about staffing when the ARCP is sheltering in place or when there is an evacuation of the ARCP. Planning shall include documentation of staff that have agreed to work during an emergency and contact information for such staff. The plan shall include provisions for adequate, qualified staff as well as provisions for the assignment of responsibilities and duties to staff.

H. The facility shall have transportation or arrangements for transportation for evacuation, hospitalization, or any other services which are appropriate. Transportation or arrangements for transportation shall be adequate for the current census and meet the ambulatory needs of the residents.

I. The plan shall include procedures to notify the resident's family or responsible representative whether the facility is sheltering in place or evacuating to another site. The plan shall include which staff is responsible for providing this notification. If the facility evacuates, notification shall include:

- 1. the date and approximate time that the facility is evacuating;
- 2. the place or location to which the facility is evacuating, including the:
  - a. name;
  - b. address; and
  - c. telephone number;

J. The plan shall include the procedure or method whereby each facility resident has a manner of identification attached to his person which remains with him at all times in the event of sheltering in place or evacuation, and whose duty and responsibility this will be. The following minimum information shall be included with the resident:

- 1. current and active diagnosis;
- 2. medications, including dosage and times administered;

3. allergies;
4. special dietary needs or restrictions; and
5. next of kin or responsible person and contact information.

K. The plan shall include an evaluation of the building and necessary systems to determine the ability to withstand wind, flood, and other local hazards that may affect the facility. If applicable, the plan shall also include an evaluation of each generator's fuel source(s), including refueling plans and fuel consumption.

L. The plan shall include an evaluation of the facility's surroundings to determine lay-down hazards, objects that could fall on the facility, and hazardous materials in or around the facility, such as:

1. trees;
2. towers;
3. storage tanks;
4. other buildings;
5. pipe lines;
6. chemicals;
7. fuels; or
8. biologics.

M. For ARCPs that are geographically located south of Interstate 10 or Interstate 12, the plan shall include the determinations of when the facility will shelter in place and when the facility will evacuate for a hurricane and the conditions that guide these determinations.

1. A facility is considered to be sheltering in place for a storm if the facility elects to stay in place rather than evacuate when located in the projected path of an approaching storm of tropical storm strength or a stronger storm.

NOTE: Tropical storm strength shall be defined as a tropical cyclone in which the maximum sustained surface windspeed (using the U.S. 1 minute average standard) ranges from 34 kt (39 mph, 17.5 m/s) to 63 kt (73 mph, 32.5 m/s).

2. If sheltering in place, the facility has elected to take this action after reviewing all available and required information on the storm, the facility, the facility's surroundings, and consultation with the local or parish OHSEP.

3. The facility accepts all responsibility for the health and well-being of all residents that shelter with the facility before, during, and after the storm. In making the decision to shelter in place or evacuate, the facility shall consider the following:

- a. what conditions will the facility shelter for;
- b. what conditions will the facility close or evacuate for; and
- c. when will these decisions be made.

4. If the facility shelters in place, the facility's plan shall include provisions for seven days of necessary supplies to be provided by the facility prior to the emergency event, to include:

- a. drinking water or fluids; and
- b. non-perishable food.

N. The facility's emergency plan shall include a posted communications plan for contacting emergency services and monitoring emergency broadcasts and whose duty and responsibility this will be.

O. The facility's plan shall include how the ARCP will notify OHSEP and DHH when the decision is made to

shelter in place and whose responsibility it is to provide this notification.

P. The facility shall have a plan for an on-going safety program to include:

1. continuous inspection of the facility for possible hazards;
2. continuous monitoring of safety equipment and maintenance or repair when needed;
3. investigation and documentation of all accidents or emergencies;
4. fire control and evacuation planning with documentation of all emergency drills;
  - a. residents can be informed of emergency drills;
5. all aspects of the facility's plan, planning, and drills shall meet the current requirements of the office of the State Fire Marshal, and the Life Safety Code National Fire Protection Association (NFPA) 101; and
6. the facility shall inform the resident and/or responsible party of the facility's emergency plan and the actions to be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2602 (December 2008).

#### **§6877. Emergency Plan Activation, Review and Summary**

A. The facility's emergency plan(s) shall be activated at least annually, either in response to an emergency or in a planned drill. All staff shall be trained and have knowledge of the emergency plan.

B. ARCPs must conduct a minimum of 12 fire drills annually with at least one every three months on each shift. In addition to drills for emergencies due to fire, the facility shall conduct at least one drill per year for emergencies due to a disaster other than fire, such as storm, flood, and other natural disasters.

1. All staff shall participate in at least one drill annually. Residents shall be encouraged to participate, but the provider may not infringe upon the right of the resident to refuse to participate.

2. The facility shall test at least one manual pull alarm each month of the year and maintain documentation of test dates, location of each manual pull alarm tested, persons testing the alarm, and its condition.

3. Fire extinguishers shall be conspicuously hung, kept easily accessible, shall be visually examined monthly and the examination shall be recorded on a tag which is attached to the fire extinguisher. Fire extinguishers shall also be inspected and maintained in accordance with manufacturers' and applicable NFPA requirements. Each fire extinguisher shall be labeled to show the date of such inspection and maintenance.

C. The facility's performance during the activation of the plan shall be evaluated annually by the facility and the findings shall be documented in the plan.

D. The plan shall be revised if indicated by the facility's performance during the emergency event or the planned drill.

1. Updates, amendments, modifications, or changes that are required or found days. Clearly mark, remove, make note of, or delete parts of the plan that are outdated or no longer in use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:216361-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2603 (December 2008).

**§6879. Notification**

A. Emergency preparedness procedures shall specify the following:

1. persons to be notified;
2. process of notification;
3. verification of notification;
4. locations of emergency equipment and alarm signals;
5. evacuation routes;
6. procedures for evacuating residents;
7. procedures for re-entry and recovery;
8. frequency of fire drills;
9. tasks and responsibilities assigned to all personnel;

and  
10. medications and records to be taken from the facility upon evacuation and to be returned following the emergency.

B. An ARCP shall immediately notify the department and other appropriate agencies of any fire, disaster or other emergency that may present a danger to residents or require their evacuation from the facility.

C. In the event that an ARCP evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state, local or parish OHSEP, the ARCP must immediately give notice to the Health Standards Section and OHSEP by facsimile or email of the following:

1. the date and approximate time of the evacuation;
- and
2. the locations of where the residents have been placed, whether this location is a host site for one or more of the ARCP residents.

D. In the event that an ARCP evacuates, temporarily relocates or temporarily ceases operations at its licensed location for any reason other than an evacuation order, the ARCP must immediately give notice to the Health Standards Section by facsimile or email of the following:

1. the date and approximate time of the evacuation;
- and
2. the locations of where the residents have been placed, whether this location is a host site for one or more of the ARCP residents.

E. If there are any deviations or changes made to the locations of the residents that was given to the Health Standards Section and OHSEP, then both Health Standards and OHSEP shall be notified of the changes within 48 hours of their occurrence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2604 (December 2008).

**§6881. Authority to Re-open After an Evacuation, Temporary Relocation or Temporary Cessation of Operation**

A. In the event that an ARCP evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the

state, local, or parish OHSEP, due to a declared disaster or other emergency, and that facility sustains damages due to wind, flooding, precipitation, fire, power outages or other causes, the facility shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Health Standards Section, and the facility has received a letter of approval from the department for reopening the facility.

1. The purpose of these surveys is to assure that the facility is in compliance with the licensing standards including, but not limited to, the structural soundness of the building, the sanitation code, staffing requirements and the execution of emergency plans.

B. If an ARCP evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the state or parish OHSEP, due to a declared disaster or other emergency, and the facility does not sustain damages due to wind, flooding, precipitation, fire, power outages or other causes, the facility may be reopened without the necessity of the required surveys.

1. Prior to reopening, the facility shall notify the Health Standards Section in writing that the facility is reopening.

C. The facility shall submit a written initial summary report to the department's Health Standards Section. This report shall be submitted within 14 days from the date of the emergency event which led to the facility having to evacuate, temporarily relocate or temporarily cease operations. The report shall indicate how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

1. pertinent plan provisions and how the plan was followed and executed;
2. plan provisions that were not followed;
3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
4. contingency arrangements made for those plan provisions not followed; and
5. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of the injuries and deaths.

D. If a facility shelters in place at its licensed location during a declared disaster or other emergency, the facility shall submit a written initial summary report to the department's Health Standards Section. This report shall be submitted within 14 days from the date of the emergency event which led to the facility having to shelter in place. The report shall indicate how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

1. pertinent plan provisions and how the plan was followed and executed;
2. plan provisions that were not followed;
3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
4. contingency arrangements made for those plan provisions not followed; and
5. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths.

E. Upon request by the department's Health Standards Section, a report that is more specific and detailed regarding the facility's execution of their emergency plan shall be submitted to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2604 (December 2008).

#### **Subchapter H. Physical Environment**

##### **§6885. General Requirements and Authority**

A. The standards in this subchapter shall apply to newly constructed ARCPs or alterations, additions or renovations to an existing ARCP or to an existing building to create an ARCP.

B. An ARCP shall submit architectural plans to DHH-Division of Engineering and Architectural Services and the Office of the State Fire Marshal. The regulations and codes governing new facilities also apply if and when the facility proposes to begin operation in a building not previously and continuously used as a facility licensed under these regulations.

C. Construction documents (plans and specifications) are required to be submitted and approved by both the Louisiana State Fire Marshal and the department as a part of the licensing procedure and prior to obtaining a license.

1. Procedures for submission of construction documents are as follows.

a. One set of the final construction documents shall be submitted to the Louisiana State Fire Marshal for approval. The Fire Marshal's letter of approval and final inspection shall be sent to DHH Division of Engineering & Architectural Services.

b. One set of the final construction documents (plans and specifications) shall be submitted to the Louisiana Department of Health and Hospitals, Division of Engineering and Architectural Services, along with the appropriate review fee, and a "plan review application form" for approval.

2. Applicable Projects. Construction documents (plans and specifications) are required to be approved for the following type projects:

- a. new construction of an ARCP;
- b. renovation of an existing building to be licensed as an ARCPs; and
- c. major alterations or additions to an existing ARCP.

3. Design Criteria. The project shall be designed in accordance with the following criteria:

- a. The Guidelines for Design and Construction of Health Care Facilities, current edition, published by the American Institute of Architects;
- b. the current edition of NFPA 101—Life Safety Code; and
- c. the current edition of the Standard Plumbing Code;
- d. the Americans with Disabilities Act—Accessibility Guidelines for Buildings and Facilities (ADAAG), September 1998 edition;
- e. the current Louisiana Department of Health and Hospitals licensing regulations for adult residential care providers.

#### 4. Preparation of Construction Documents

a. Construction documents (plans and specifications) for submission to the department shall be prepared only by a Louisiana Licensed Architect or qualified licensed engineer as governed by the Licensing Laws of the State of Louisiana for the type of work to be performed.

b. Construction documents submitted shall be of an architectural or engineering nature, and thoroughly illustrate the project through accurately drawn, dimensioned, and noted plans, details, schedules, and specifications. At a minimum the following shall be submitted:

- i. site plan(s);
- ii. floor plan(s) including architectural, mechanical, plumbing, electrical, fire protection, and if required by code, sprinkler, and fire alarm plans;
- iii. building elevations;
- iv. room finish, door, & window schedules;
- v. details pertaining to ADA requirements;
- vi. specifications for materials; and
- vii. an additional set of basic preliminary type, legible site plan and floor plans in either 8 1/2" x 11"; 8 1/2" x 14" or 11" x 17" format. (These are for use by DHH in doing the final inspection of the facility and should include legible room names).

c. In the event that submitted materials do not appear to satisfactorily comply with the "Design Criteria" as outlined above, the DHH Division of Engineering and Architectural Services shall furnish a letter to the party submitting the application for review, which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.

D. Waivers. The secretary of the department may, within his sole discretion, grant waivers to building and construction guidelines. The secretary, in exercising his discretion, must at a minimum, require the applicant to comply with the edition of the building and construction guidelines which immediately preceded the most current edition of the Guidelines for Design and Construction of Health Care Facilities. Requests for waivers are considered on the following basis.

1. The facility shall demonstrate how resident safety and the maintenance of a homelike environment is not compromised.

2. No waiver shall be approved that results in an ARCP that is not physically distinct from any residential care facility, nursing home or hospital to which it is attached or of which it is a part.

3. No waiver shall be approved which results in living units that do not provide all required physical features and/or does not provide sufficient space to permit residents to carry out, with or without assistance, all the functions necessary for independent living within the provisions of the residential living unit guidelines.

4. The facility must demonstrate their ability to completely fulfill all other requirements of the service.

5. The department will make a written determination of the request.

6. Waivers are not transferable in an ownership change and are subject to review or revocation upon any change in circumstances to the waiver.

E. All facilities licensed under these regulations shall be designed and constructed to substantially comply with pertinent local and state laws, codes, ordinances and standards. All new construction shall be in accordance with Louisiana Uniform Construction Code in effect at the time of original licensure, except that:

1. All exit corridors shall be no less than six feet wide, and shall be clear of obstructions;

2. Exit doors from patient or resident rooms shall be no less than 36 inches wide; and

3. Doors shall, at a minimum, meet or exceed the fire ratings specified for I-2 Group construction under the International Building Code (IBC) 2000. The approved fire rating of the door constructed in accordance with IBC requirements, and not door construction types, such as hollow or solid-core shall determine compliance with this requirement.

F. The facility shall develop and shall comply with a written evacuation plan approved by the state and local fire marshal.

G. In addition to compliance with the Louisiana Uniform Construction Code, all construction shall comply with the requirements of the American Disability Act (ADA).

H. Mixed-use occupancy shall not be permitted in buildings classified as industrial, commercial/retail, high hazard, or other type of restricted use.

I. Practices that create an increased risk of fire are prohibited. This includes, but is not limited to:

1. space heaters; (In cases of emergency, such as extended power loss during periods of cold weather, space heaters are permitted upon the approval of the department.);

2. the accumulation or storage within the facility of combustible materials such as rags, paper items, gasoline, kerosene, paint or paint thinners;

3. the use of candles, oil lamps, incense or open-flamed items;

4. the use of extension cords or multi-plug adapters for electrical outlets.

a. Facilities may utilize transient voltage surge protectors or surge suppressors with microprocessor electronic equipment such as computers or CD/DVD recorders or players. Any transient voltage surge protectors or surge suppressors must have a maximum UL rating of 330v and must have a functioning protection indicator light.

b. Facilities may not use transient voltage surge protectors or surge suppressors that do not function completely or the protection indicator light does not work.

#### J. Safety Standards

1. Facilities may elect to prohibit smoking in the facility or on the grounds or both. If a facility elects to permit smoking in the facility or on the grounds, the facility shall include the following minimal provisions, and the facility shall ensure that:

a. In facilities equipped with sprinkler systems, the facility may designate a smoking area or areas within the facility. The designated area or areas shall have a ventilation system that is separate from the ventilation system for non-smoking areas of the facility. Facilities lacking a sprinkler system are prohibited from designating smoking areas within the facility.

b. Smoking shall be prohibited in any room or compartment where flammable liquids, combustible gases or

oxygen is used or stored and in other hazardous location and any general use/common areas of the adult residential care provider facility. Such areas shall be posted with "no smoking" signs.

c. Smoking by residents classified as not capable of doing so without assistance shall be prohibited unless the resident is under direct supervision.

d. Ashtrays of noncombustible material and safe design shall be placed in all areas where smoking is permitted.

e. Metal containers with self-closing cover devices into which ashtrays may be emptied shall be placed in all areas where smoking is permitted.

#### K. Kitchen/Food Service

1. The facility shall have appropriately furnished dining room(s) that can accommodate residents in a comfortable dining environment. Dining room(s) may be sized to accommodate residents in either one or two settings.

a. The facility shall have a central or a warming kitchen.

b. The kitchen and food preparation area shall be well lighted, ventilated, and located apart from other areas, which could occasion food contamination.

c. All kitchens and dining facilities shall be adequate to serve the number of residents residing in the facility and shall meet all applicable sanitation and safety standards.

d. Each facility shall comply with all applicable regulations relating to food service for sanitation, safety, and health as set forth by state, county, and local health departments.

e. An adequate supply of eating utensils (e.g., cups, saucers, plates, glasses, bowls, and flatware) will be maintained in the facility's kitchen to meet the needs of the communal dining program. An adequate number of pots and pans shall be provided for preparing meals. Eating utensils shall be free of chips or cracks.

f. Each ARCP shall have adequate refrigeration and storage space. An adequately sized storage room shall be provided with adequate shelving. The storage room shall be constructed to prevent the invasion of rodents, insects, sewage, water leakage or any other contamination. The bottom shelf shall be of sufficient height from the floor to allow cleaning of the area underneath the bottom shelf.

g. All newly constructed adult residential care providers will have a commercial grade kitchen.

h. All converted adult residential care providers can opt out of having a commercial grade kitchen as part of the licensed facility in order to have meals prepared in an offsite location or within the facility if the facility is converting a separate and distinct wing. Facilities opting out must have a kitchen area to hold, warm and serve food if food is prepared at an off-site location. This kitchen area must meet the Louisiana Sanitary Code requirements for food safety and handling. Meals and snacks provided by the ARCP but not prepared on site shall be obtained from or provided by an entity that meets the standards of state and local health regulations concerning the preparation and serving of food. This requirement does not exempt facilities from meeting dining room space that is separate and distinct as referenced above in physical separation standards.

i. In facilities that have commercial kitchens with automatic extinguishers in the range hood, the portable five pound fire extinguisher must be compatible with the chemicals used in the range hood extinguisher. The manufacturer recommendations shall be followed.

j. Food scraps shall be placed in garbage cans with airtight fitting lids and bag liners. Garbage cans shall be emptied as necessary, as but no less than daily.

#### L. Laundry/Housekeeping

1. Each ARCP shall have laundering facilities unless commercial laundries are used. The laundry shall be located in a specifically designed area that is physically separate and distinct from residents' rooms and from areas used for dining and food preparation and service. There shall be adequate rooms and spaces for sorting, processing and storage of soiled material. Laundry rooms shall not open directly into resident care area or food service area.

2. Domestic washers and dryers for the use by residents may be provided in resident areas provided they are installed in such a manner that they do not cause a sanitation problem or offensive odors.

3. Laundry dryers shall be properly vented to the outside.

4. The laundry room shall be well lighted and vented to the outside by either power vents, gravity vents or by outside windows.

5. Supplies and equipment used for housekeeping will be stored in a separate locked room. All hazardous chemicals will be stored in compliance with OPH.

#### M. Lighting

1. Sufficient lighting shall be provided for general lighting and reading in residential units and common areas.

2. Night-lights for corridors, emergency situations and the exterior shall be provided as needed for security and safety.

#### N. HVAC/Ventilation

1. The facility shall provide safe HVAC systems sufficient to maintain comfortable temperatures with a minimum of 65 degrees and maximum 80 degrees Fahrenheit in all indoor public and private areas in all seasons of the year. During warm weather conditions, the temperature within the facility shall not exceed 80 degrees Fahrenheit.

2. All gas-heating units must bear the stamp of approval of the American Gas Association Testing Laboratories, Inc. or other nationally recognized testing agency for enclosed, vented heaters for the type of fuel used.

3. All gas heating units and water heaters must be vented adequately to carry the products of combustion to the outside atmosphere. Vents must be constructed and maintained to provide a continuous draft to the outside atmosphere in accordance with the American Gas Association recommended procedures.

4. All heating units must be provided with a sufficient supply of outside air so as to support combustion without depletion of the air in the occupied room.

5. The use of portable heaters by the facility and residents is strictly prohibited.

6. The facility shall provide for and operate adequate ventilation in all areas used by residents. In new facilities

licensed after the effective date of these regulations, the facility must provide each apartment or unit with an individual thermostat controlling the temperature in that apartment or unit. In addition, the facility must provide a heating, ventilating and air conditioning (HVAC) system(s) for the apartments or units and common areas capable of maintaining any temperature between 68 and 80 degrees at any time throughout the year.

7. Filters for heaters and air conditioners shall be provided as needed and maintained in accordance with manufacturer's specifications.

#### O. Water Supply

1. An adequate supply of water, under pressure, must be provided at all times.

2. When a public water system is available, a connection must be made thereto. If water from a source other than a public water supply is used, the supply must meet the requirements set forth under rules and regulations of the Office of Public Health (OPH).

3. A contract to supply potable water shall be implemented with a third party not associated with the operation of the adult residential care provider facility in the event the facility's water supply should be interrupted.

#### P. Sewage

1. All sewage must be disposed of by means of either:

a. a public system where one is accessible within 300 feet; or

b. an approved sewage disposal system that is constructed and operated in conformance with the standards established for such systems by the OPH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2605 (December 2008).

### **§6887. Physical Appearance and Conditions**

A. An ARCP shall ensure that all structures of the grounds of the facility shall be accessible to residents are maintained in good repair and are free from any excessive hazard to health and safety.

B. The site shall be adequate to accommodate roads and walks within the lot lines to at least the main entrance, ambulance entrance, and service entrance. An accessible outdoor recreation area is required and must be made available to all residents and include walkways suitable for walking and benches for resting. Lighting must be equal to a minimum of five foot-candles. All facility sites shall contain enough exterior square footage equal to at least half of the common area square footage as contained in the building for walks, drives and lawn space.

C. Facilities must have an entry and exit drive to and from the main building entrance that will allow for picking up and dropping off residents and for mail deliveries. There should be a covered area at the entrance to the building to afford residents protection from the weather.

D. A provider shall maintain the grounds of the facility in an acceptable manner and shall ensure that the grounds are free from any hazard to health or safety.

E. Areas determined to be unsafe, including but not limited to steep grades, cliffs, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced off or have natural barriers to protect residents.

F. Fences shall be in good repair.

G. If facility chooses to store generator within the exterior space, it shall be fenced off or have natural barriers to protect residents.

H. Waste Removal and Pest Control

1. Garbage and rubbish that is stored outside shall be stored securely in covered containers and shall be removed on a regular basis.

2. Trash collection receptacles and incinerators shall be separate from outdoor recreational space and located as to avoid being a nuisance to neighbors.

3. The ARCP shall have an effective pest control program through a pest control contract.

I. Signage

1. The facility's address and name shall be displayed so as to be easily visible from the street.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2607 (December 2008).

### **§6889. Resident General Use/Common Areas**

A. Residents of the ARCP shall have access to the outdoors for recreational use. The parking lot shall not double as recreational space.

1. If a provider accepts residents that have dementia or other conditions that may cause them to leave or walk away from the home/facility, an enclosed area shall be provided adjacent to the home/facility so that the residents may go outside safely. This area shall allow for at least 60 square feet per resident.

B. Distinct Part Facilities

1. Physical and Programmatic Separation. An ARCP shall be both physically and programmatically distinct from any nursing home or hospital to which it is attached or of which it is a part. ARCPs shall comply with R.S. 40:2007 with reference to facilities within facilities.

2. Physical separation. If more than one business occupies the same building, premises, or physical location, the ARCP shall have its own entrance. This separate entrance shall not be accessed solely through another business or health care provider. This separate entrance shall have appropriate signage and shall be clearly identifiable as belonging to the ARCP.

C. Each ARCP shall meet the following requirements for resident general use/common areas.

1. Each facility shall have dining room and living room space easily accessible to all residents.

2. Common dining rooms and living rooms shall not be used as bedrooms.

3. Dining rooms shall be furnished with enough dining tables and chairs to permit all residents to be seated, or to permit one-half of the resident census to be seated at one time and allowing facilities to provide dining schedules that allow two settings per meal.

4. Dining rooms and living rooms shall be available for use by residents at appropriate times to provide periods of social diversion and individual or group activities.

5. The facility shall provide public restrooms of sufficient number and located in close proximity to common and leisure areas to meet the needs of residents, staff and visitors to the facility and shall be located in areas other than the resident's apartment or unit.

6. All resident areas shall be painted and appropriately furnished.

7. Facilities in buildings constructed after the effective date of these regulations shall be constructed with hallways/corridors a minimum of six feet wide to allow two wheelchairs to pass each other.

8. Facilities in existing buildings that have not undergone substantial renovation since the effective date of these regulations shall have corridors large enough to meet current egress requirements mandated by applicable codes.

9. A minimum of one phone jack or equivalent technology (i.e. wireless internet or cable) shall be available in each resident's apartment or unit for the resident to establish private phone service in his or her name. In addition, there shall be, at a minimum, one dedicated facility phone and phone line for every 40 residents in common areas. The phone shall allow unlimited local calling without charge. Long distance calling shall be possible at the expense of the resident or personal representative via personal calling card, pre-paid phone card, or similar methods. Residents shall be able to make phone calls in private. *Private* can be defined as placing the phone in an area that is secluded and away from frequently used areas.

10. Facility's laundry services area(s) shall meet the requirements outlined in these provisions.

11. Facility's medication storage area(s) shall meet the requirements outlined in these provisions.

12. Square footage requirements for common area living room, dining room, and activities room are as follows.

a. Living and activity spaces shall be separate from the dining room with a combined total square footage of at least 60 square feet per resident. Living and activity spaces do not include corridors and lobby areas for the purposes of calculation. Living and activity spaces may be combined.

b. The facility shall have at least 20 square feet of designated dining space per resident if dining will be conducted in one seating. If dining will be conducted in two seatings, 10 square feet per resident will be required. Facilities will document their dining seating plan, and maintain the documentation for review by the department.

c. In facilities that house residents in more than one building, there shall be a living room and/or activities room located in each building with at least 10 square feet per licensed resident with an additional 10 square feet available on the campus in a common area. The facility's 10 square feet per licensed resident in the common area shall be distinct from any other square footage requirements for other campus programs.

d. In facilities housing residents in more than one building, a single dining room may be used for the complex. The dining room in multi-building facility shall have at least 20 square feet of space per licensed resident in the facility. If dining will be conducted in two seatings, 15 square feet per resident will be required. Facilities will document their dining seating plan, and maintain the documentation for review by department.

13. In facilities housing residents in more than 1 building, protection from the elements of the weather shall be provided for residents who must access other buildings.

14. Any modification, alternation or addition shall satisfy all physical environment requirements in effect at the

time that the modification, alteration, or addition is placed into service and shall meet the requirements of the ADA.

15. A facility shall not share common living, or dining space with another facility licensed to care for individuals on a 24 hour basis.

16. The facility shall provide common areas to allow residents the opportunity for socialization.

17. Dining rooms and leisure areas shall be available for use by residents at appropriate times to provide periods of social and diversified individual and group activities.

18. The facility shall provide public restrooms of sufficient number and location to serve residents and visitors. Public restrooms are located close enough to activity hubs to allow residents with incontinence to participate comfortably in activities and social opportunities.

19. The facility's common areas shall be accessible and maintained to provide a clean, safe and attractive environment for the residents.

20. Leisure common areas shall not be confined to a single room.

21. Space used for administration, sleeping, or passage shall not be considered as dining or leisure space.

22. Wastepaper baskets and trash containers used in the common areas must be metal or approved washable plastic baskets.

23. Living and/or recreational rooms shall be furnished according to the activities offered. Furniture for living rooms and sitting areas shall include comfortable chairs, tables, and lamps of good repair and appearance.

24. The facility shall prominently post the grievance procedure, resident's rights, and abuse and neglect procedures in an area accessible to all residents.

25. During power outages or other emergencies, the facility shall have the ability to generate power to the main common area/space.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2608 (December 2008).

### **§6891. Residential Living Units**

#### **A. General Requirements**

1. All living units in adult residential care provider facilities shall be independent apartments. Each apartment or unit shall be at minimum 300 square feet in size and configured to permit residents to carry out, with or without assistance, all the functions necessary for independent living, including sleeping; sitting; dressing; personal hygiene; storing, preparing, serving and eating food; storing clothing and other personal possessions; doing personal correspondence and paperwork; and entertaining visitors. Each apartment or unit shall be accessible to and useable by residents who use a wheelchair or other mobility aid consistent with the accessibility standards.

2. Privacy of residents shall be maintained in all living units.

B. Physical Features. Each residential unit shall have at least the following.

1. An individual lockable entrance and exit. A single door may serve as both entrance and exit. Keys, code or other opening device for the door(s) to the adult residential care provider facility shall be supplied to all residents without a credible diagnosis of dementia. In situations where a provider feels a resident without a diagnosis of dementia is at risk of injury to themselves if provided with a key, code or other exit device to the facility, a managed risk agreement may be negotiated. All apartments or units shall be accessible by means of a master key or similar system that is available at all times in the facility and for use by designated staff.

2. Each apartment or unit shall have a minimum of 300 square feet.

3. No apartment or unit in an adult residential care provider facility shall be occupied by more than two residents regardless of square footage.

4. Each residential unit shall contain an outside window. Skylights are not acceptable to meet this requirement.

5. In new facilities licensed after the effective date of these regulations, the facility shall provide HVAC thermostats that can be individually controlled by the resident, with a locking mechanism provided, if required, to prevent harm to a resident.

6. Each residential unit shall have a separate and complete bathroom with a toilet, bathtub or shower, and sink. The bathrooms must be ADA accessible, as required by the State Fire Marshal. Roll-in showers are encouraged.

7. The cooking capacity of each residential unit may be removed or disconnected depending on the individual needs of the resident.

8. Each residential unit shall have a call system, either wired or wireless, monitored 24-hours a day by the ARCP.

9. Each apartment or unit shall be equipped for telephone and television cable or central television antenna system.

10. Each residential unit shall have easy access to common areas such as living room(s), activity room(s), dining room(s) and laundry.

11. Each residential unit shall have a kitchen that is a visually and functionally distinct area within the unit.

12. Each residential unit shall have a sleeping and living area that is an area within the apartment or unit but need not be separate rooms.

#### **C. Bedrooms**

1. The facility may provide either studio, one or two bedroom or a combination of residential unit sizes based upon the feasibility and market study.

2. The bedroom in each residential unit shall be a visually separate and distinct area.

3. In order to develop a two-bedroom unit, a minimum of 100 square feet must be allowed for the second bedroom.

#### **D. Kitchenettes**

1. Each residential unit shall contain, at a minimum, a small refrigerator, a wall cabinet for food storage, a small bar-type sink, and a counter with workspace and electrical

outlets, a small cooking appliance, for example, a microwave or a two-burner cook top.

2. If the resident assessments indicate that having a cooking appliance in the living unit endangers the resident, no cooking appliance shall be provided or allowed in the living unit or the cooking appliance may be disconnected.

#### E. Bathrooms

1. Entrance to a bathroom from one residential unit shall not be through another residential unit.

2. Bathtubs and/or showers should be able to support aging in place, support accessibility for persons with limited mobility and be accessible to wide array of ability levels, including but not limited to, roll in showers, lift assist bathing and side entrance bathtubs.

3. Grab bars and non-skid surfacing or strips shall be installed in all showers and bath areas.

4. Bathrooms shall have floors and walls of impermeable, cleanable, and easily sanitized materials.

5. Resident bathrooms shall not be utilized for storage or purposes other than those indicated by this Subsection.

6. Hot and cold-water faucets shall be easily identifiable and be equipped with scald control.

7. Emergency call system.

#### F. Storage

1. The facility shall provide adequate portable or permanent closet(s) in the resident's unit for clothing and personal belongings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2609 (December 2008).

### §6893. Furnishings and Equipment

A. The following are general provision care provider must meet.

1. All rooms must have working light switches at the entrance to each room.

2. Windows must be kept clean and in good repair and supplied with curtains, shades or drapes. Each window that can be opened shall have a screen that is clean and in good repair.

3. Light fixtures in resident general use or common areas must be equipped with covers to prevent glare and hazards to the residents.

4. All fans located within seven feet of the floor must be protected by screen guards.

5. Common dining room space and furnishings in good repair must be provided for each resident in the facility. Dining room space and furnishings must be sufficient to serve all residents. Facilities shall be allowed to plan dining schedules to allow for two settings per meal to increase resident's choice of meal times.

6. All furnishings and equipment in common areas must be durable, clean, and appropriate to its functions.

7. All areas of a facility must be well lighted to ensure residents' safety.

8. Throw or scatter rugs, or bath rugs or mats shall have a non-skid backing.

#### B. Residential Furnishings

1. Furniture. Each facility shall strive to maintain a residential environment and encourage residents to use their own furnishings and supplies. However, if the resident does

not have their own furniture, the facility must provide basic furnishings. The basic furnishings for each unit are:

a. a bed unit, including a frame and a clean mattress and pillow;

b. basic furnishings, such as a private dresser or similar storage area for personal belongings that is readily accessible to the resident;

c. a closet, permanent or portable, to store clothing and aids to physical functioning, if any, which is readily accessible to the resident;

d. a minimum of two chairs;

e. a table for dining;

f. window treatments to ensure privacy; and

g. lamp for reading.

2. Linens. Residents may provide their own linens, but may not be required by the facility to do so. The facility must include in the resident's occupancy admission agreement whether the resident or his or her personal representative prefers the facility to provide linens or the resident, resident's family or his or her personal representative will provide his or her own linens, and whether the facility will launder the linens or the resident, resident's family or his or her personal representative will launder his or her own linens. Linens may be provided by the facility for no cost or may be provided at an extra charge.

a. If the resident, resident's family or his or her personal representative party chooses to utilize facility linens, the following minimum amounts of linen must be available in the facility at all times:

i. sheets—three sets for each resident;

ii. pillow cases—three sets for each resident;

iii. bath towel—three for each resident;

iv. hand towels—three for each resident;

v. washcloths—three for each resident;

vi. blankets—one for each resident; blankets type for the season and the individual resident's comfort; and

vii. pillows—one per resident.

b. If the resident, resident's family or his or her personal representative wishes to use his or her own personal linens, the facility will counsel the resident, resident's family or his or her personal representative on recommended quantities to maintain. In the case where a resident, resident's family or his or her personal representative uses personal linens, the facility is not required to provide or keep available any linen for the resident unless the resident does not have sufficient numbers of personal linens available to maintain clean and sanitary conditions. If this is the case, the facility shall provide additional linens up to the quantities specified above. In both cases, clean linens may be stored in the resident's unit.

c. Bed linens must be changed at least weekly, or as often as needed to ensure clean or non-soiled linens.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2610 (December 2008).

Alan Levine  
Secretary

0812#080

## RULE

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

#### Facility Need Review—Adult Residential Care (LAC 48:I.Chapter 125)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended LAC 48:I.Chapter 125 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2116, and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

#### Title 48

#### PUBLIC HEALTH—GENERAL

#### Part 1. General Administration

#### Subpart 5. Health Planning

#### Chapter 125. Facility Need Review

#### Subchapter A. General Provisions

#### §12501. Definitions

A. Definitions. When used in this Chapter the following terms and phrases shall have the following meanings unless the context requires otherwise.

*Abeyance of Nursing Facility Beds*—a situation in which a nursing facility, if it meets certain requirements, may have all (but not only a portion) of its approved beds disenrolled from the Medicaid Program without causing the approval for the beds to be revoked after 120 days.

*Adult Residential Care Provider (ARCP)*—a facility, agency, institution, society, corporation, partnership, company entity, residence, person or persons, or any other group which provides adult residential care services for compensation for two or more adults who are unrelated to the licensee or operator. Adult residential care includes, but is not limited to the following services: lodging, meals, medication administration, intermittent nursing service, and assistance with personal hygiene, assistance with transfers and ambulation, assistance with dressing, housekeeping and laundry.

*Applicant*—the person who is developing the proposal for purposes of enrolling the facility, units and/or beds in the Medicaid Program. See the definition of *Person*.

*Applicant Representative*—the person specified by the applicant on the application form to whom written notifications are sent relative to the status of the application during the review process.

*Approval*—a determination by the department that an application meets the criteria of the Facility Need Review (FNR) Program for purposes of participating in the Medicaid Program or a determination by the department that an application meets the criteria of the FNR Program for purposes of being licensed by the department.

*Approved*—beds and/or facilities which are grandfathered in accordance with the grandfather provisions of this program and/or beds approved in accordance with the Facility Need Review Program.

*CMS*—Centers for Medicare and Medicaid Services.

*Community Home*—a type of community residential facility which has a capacity of eight or fewer beds.

*Department*—the Department of Health and Hospitals in the state of Louisiana.

*Department of Health and Hospitals (DHH)*—the agency responsible for administering the Medicaid Program in Louisiana.

*Disapproval*—a determination by the department that a proposal does not meet the criteria of the Facility Need Review Program and that the proposed facility, beds or units may not participate in the Medicaid Program.

*Emergency Community Home Bed Pool*—a pool consisting of approved beds which have been transferred from state developmental centers and which are made available for transfer to non state-operated community homes in order to address emergency situations on a case-by-case basis.

*Enrollment in Medicaid*—execution of a provider agreement with respect to reimbursement for services provided to Title XIX eligibles.

*Facility Need Review (FNR)*—a review conducted for nursing facility beds (including skilled beds, IC-I and IC-II beds), intermediate care facility for the developmentally disabled beds, and adult residential care units to determine whether there is a need for additional beds to enroll and participate in the Medicaid Program.

*Group Home*—a type of community residential facility which has a capacity of nine to 15 beds.

*Health Standards Section*—the section in the Bureau of Health Services Financing which is responsible for licensing health care facilities and agencies, certifying those facilities and agencies that are applying for participation in the Medicaid (Title XIX) and Medicare (Title XVIII) Programs, and conducting surveys and inspections.

*Hospital Service District*—a political subdivision of the State of Louisiana created or authorized pursuant to R.S. 46:1051 et seq.

*Intermediate Care-Level I (IC-I)*—a level of care within a nursing facility which provides basic nursing services under the direction of a physician to persons who require a lesser degree of care than skilled services, but who need care and services beyond the level of room and board. Services are provided under the supervision of a registered nurse seven days a week during the day tour of duty with licensed nurses 24 hours a day.

*Intermediate Care-Level II (IC-II)*—a level of care within a nursing facility which provides supervised personal care and health related services, under the direction of a physician, to persons who need nursing supervision in addition to help with personal care needs. Services are provided under the supervision of a registered nurse seven days a week during the day tour of duty with licensed nurses 24 hours a day.

*Intermediate Care Facility for the Developmentally Disabled (ICF-DD)*—a facility which provides developmentally disabled residents with professionally developed individual plans of care, supervision, and therapy in order to attain or maintain optimal functioning.

*Legal Device*—any legally binding instrument, such as a counter letter, made during the period a Notice of Abeyance is in effect, which would effect the transfer of disenrolled beds.

*Notice of Abeyance*—a written notice issued by the department to a nursing facility stating that the criteria for

placing all of the facility's approved beds in abeyance have been met.

*Medicaid Program*—the medical assistance program administered in accordance with Title XIX of the Social Security Act.

*Notification*—is deemed to be given on the date on which a decision is mailed by the Facility Need Review Program or a hearing officer.

*Nursing Facility*—an institution which is primarily engaged in providing the following services to residents and has in effect a transfer agreement with one or more hospitals:

- a. skilled nursing care and related services for residents who require medical or nursing care;
- b. rehabilitation services for the rehabilitation of injured, disabled, or sick persons; or
- c. on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities; said institutional facilities are those facilities which are not primarily for the care of mental diseases.

*Person*—an individual or other legal entity.

*Program*—the Facility Need Review Program.

*Review Period*—the period of time in which the review is conducted.

*Secretary*—the secretary of the Department of Health and Hospitals.

*Skilled Nursing Care*—a level of care within a nursing facility which provides intensive, frequent, and comprehensive nursing care and/or rehabilitation services ordered by and under the direction of a physician. Services are provided under the supervision of a registered nurse seven days a week during the day tour of duty with licensed nurses 24 hours a day. Skilled beds are located in nursing facilities and in "distinct parts" of acute care hospitals.

a. Facility Need Review policies governing skilled beds in nursing facilities also apply to Title XIX skilled beds in hospitals. In order to be enrolled to participate in Title XIX, skilled beds in hospitals must be approved through facility need review. Skilled care is also referred to as "extended care".

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:2611 (December 2008).

### **§12503. General Information**

A. The Department of Health and Hospitals will conduct a facility need review (FNR) to determine if there is a need for additional facilities, beds or units to enroll to participate in the Title XIX Program for the following facility types:

1. nursing facilities;
2. skilled nursing facilities;
3. intermediate care facilities for the developmentally disabled; and
4. adult residential care units or facilities.

B. No nursing facility, skilled nursing facility, ICF-DD bed, nor adult residential care provider units/beds shall be enrolled in the Title XIX Program unless the bed has been approved through the FNR Program. No ARCP unit may be

licensed by the department unless the unit has been approved through the FNR Program.

C. 42 CFR Part 442.12(d) allows the Medicaid agency to refuse to execute a provider agreement if adequate documentation showing good cause for such refusal has been compiled (i.e., when sufficient beds are available to serve the Title XIX population). The Facility Need Review Program will review applications for additional beds, units and/or facilities to determine whether good cause exists to deny participation in the Title XIX Program to prospective providers of those services subject to the FNR process.

D. The department shall be responsible for reviewing proposals for facilities, beds, and units submitted by health care providers seeking to participate in the Medicaid Program. The secretary or his designee shall issue a decision of approval or disapproval.

1. The duties of the department under this program include, but are not limited to:

- a. determining the applicability of these provisions to all requests for approval to enroll facilities, beds, or units in the Medicaid Program;
- b. reviewing, determining and issuing approvals or disapprovals for proposals determined to be subject to these provisions;
- c. adopting and promulgating such rules and regulations as may be necessary to implement the provisions of this program pursuant to the Administrative Procedure Act; and
- d. defining the appropriate methodology for the collection of data necessary for the administration of the program.

E. Grandfather Provision. An approval shall be deemed to have been granted under this program without review for NFs, ICF-DDs and/or beds that meet one of the following descriptions:

1. all valid Section 1122 approved health care facilities/beds;
2. all valid approvals for health care facilities/beds issued under the Medicaid Capital Expenditure Review Program prior to the effective date of this program;
3. all valid approvals for health care facilities issued under the Facility Need Review Program; or
4. all nursing facility beds which were enrolled in Medicaid as of January 20, 1991.

F. Exemptions from the facility need review process shall be made for:

1. a nursing facility which needs to be replaced as a result of destruction by fire or a natural disaster, such as a hurricane; or
2. a nursing facility and/or facility building owned by a government agency which is replaced due to a potential health hazard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:2612 (December 2008).

### **§12505. Application and Review Process**

A. FNR applications shall be submitted to the Bureau of Health Services Financing, Health Standards Section, Facility Need Review Program. Application shall be

submitted on the forms (on 8.5" by 11" paper) provided for that purpose, contain such information as the department may require, and be accompanied by a nonrefundable fee of \$10 per bed or unit. An original and three copies of the application are required for submission.

1. Application forms may be requested in writing or by telephone from the FNR Program. The FNR Program will provide application forms, inventories, utilization data, and other materials relevant to the type of application.

2. The applicant representative specified on the application will be the only person to whom the FNR Program will send written notification in matters relative to the status of the application during the review process. If the applicant representative or his address changes at any time during the review process, the applicant shall notify the FNR Program in writing.

3. A prospective ARCP applicant shall submit the following documents as part of the application:

a. certification of the number and ratio of Medicaid approved nursing facility beds that will be converted to ARC units;

b. a letter of intent that includes the location of the proposed ARC site and the proposed date of opening;

d. certification that the applicant will provide services as defined in the statute; and

e. certification which includes the following:

i. that the applicant has reviewed the licensing regulations and will comply with the licensing regulation; and

ii. acknowledgement that failure to meet the time-frames established in paragraph eight above will result in automatic expiration of the FNR approval for the ARCP units.

B. The review period will be no more than 60 days, except as noted in the case of issuance of a request for proposals (RFP). The review period begins on the first day after the date of receipt of the application, or, in the case of issuance of an RFP, on the first day after the period specified in the RFP.

1. A longer review period will be permitted only when initiated by the Facility Need Review Program. A maximum of 30 days will be allowed for an extension, except as otherwise noted for the issuance of a RFP.

2. An applicant may not request an extension of the review period, but may withdraw an application (in writing) at any time prior to the notification of the decision by the FNR Program.

a. The application fee is non-refundable.

3. The FNR Program shall review the application within the specified time limits and provide written notification of the decision to the applicant representative.

a. Notification of disapproval shall be sent by certified mail to the applicant representative, with reasons for disapproval specified.

b. If notification is not sent by the sixtieth day, except as noted in the case of issuance of a RFP, the application is automatically denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:812 (August 1995), amended LR 34:2612 (December 2008).

## **Subchapter B. Determination of Bed or Unit Need §12507. Intermediate Care Facilities for the Developmentally Disabled**

A. The service area for a proposed or existing facility is designated as the department's administrative region in which the facility or proposed facility is or will be located. The administrative regions and the parishes which comprise these regions are as follows:

1. Region I: Jefferson, Orleans, Plaquemines, and St. Bernard;

2. Region II: Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge, and West Feliciana;

3. Region III: Assumption, Lafourche, St. Charles, St. James, St. John, St. Mary, and Terrebonne;

4. Region IV: Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, and Vermilion;

5. Region V: Allen, Beauregard, Calcasieu, Cameron, and Jefferson Davis;

6. Region VI: Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Vernon, and Winn;

7. Region VII: Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine and Webster;

8. Region VIII: Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll; and

9. Region IX: Livingston, St. Helena, St. Tammany, Tangipahoa, and Washington.

B. The beds and population of the service area where the facility is located, or is proposed to be located, will be considered in determining the need for the facility or additional beds. The beds that are counted in determining the need for community and group homes are approved, licensed beds and approved, unlicensed beds as of the due date for a decision on an application.

C. Data sources utilized include information compiled by the FNR Program and the middle population projections recognized by the State Planning Office as official projections. The population projections utilized are those for the year in which the beds are to be enrolled in the Medicaid Program.

D. In accordance with the department's policy of least restrictive environment, there is currently no identified need for additional facilities with 16 or more beds. Therefore, applications for facilities of 16 or more beds shall not be accepted for review, and applications to increase existing facilities to 16 or more beds shall not be accepted for review.

E. At the present time, the recommended bed-to-population ratio for community and group homes has been achieved. However, special needs and circumstances may arise which the department may consider as indicators of need for additional beds such as occupancy rates, availability and accessibility of clients in need of placements, patient origin studies, and requests for special types of beds or services.

1. For service areas in which average annual occupancy for the four most recent quarters (as reported in the MR-2) is in excess of 93 percent, the department may review the census data, utilization trends, and other factors described in of this section to determine if additional beds are needed.

F. If the department determines that there is a need for beds in a parish with an average annual occupancy in excess of 93 percent, a Request for Proposals (RFP) will be issued. No applications will be accepted under these provisions unless the department declares a need and issues a RFP. Applications will be accepted for expansion of existing facilities and/or for the development of new facilities.

1. The RFP will indicate the region in need of beds, the number of beds needed, the date by which the beds are to be available to the target population (enrolled in Medicaid), and the factors which the department considers relevant in determining the need for the additional beds.

2. The RFP will specify the MR-2 on which the determination of need is based.

3. The RFP will be issued through newspaper publication and will specify the dates during which the department will accept applications.

4. Applications will be accepted for a period to be specified in the RFP. Once submitted, an application cannot be changed and additional information will not be accepted.

G. The department will review the proposals and independently evaluate and assign points to each of the following 10 items on the application for the quality and adequacy of the response to meet the need of the project:

1. work plan for Medicaid certification;
2. availability of the site for the proposal;
3. relationship or cooperative agreements with other health care providers;
4. accessibility to other health care providers;
5. availability of funds; financial viability;
6. experience and availability of key personnel;
7. range of services, organization of services and program design;
8. methods to achieve community integration;
9. methods to enhance and assure quality of life; and
10. plan to ensure client rights, maximize client choice and family involvement.

H. A score of 0-20 will be given to the applicant's response to each item using the following guideline:

1. 0 = inadequate response;
2. 5 = marginal response;
3. 10 = satisfactory response;
4. 15 = above average response; and
5. 20 = outstanding response.

I. In the case of a tie for the highest score for a specific facility or additional beds, the department will conduct a comparative review of the top scoring proposals which will include prior compliance history. The department will make a decision to approve one of the top scoring applications based on the comparative review of the proposals.

J. If no proposals are received which adequately respond to the need, the department may opt not to approve an application.

K. At the end of the 90-day review period, each applicant will be notified of the department's decision to approve or disapprove the application. However, the evaluation period may be extended for up to 60 days. Applicants will be given 30 days from the date of receipt of the notification by the department in which to file an appeal.

1. The issuance of the approval of the proposal with the highest number of points shall be suspended during the 30-day period for filing appeals and during the pendency of

any administrative appeal. All administrative appeals shall be consolidated for purposes of the hearing.

L. Proposals approved under these provisions are bound to the description in the application with regard to type of beds and/or services proposed as well as to the location as defined in the RFP issued by the department.

1. Approval for Medicaid shall be revoked if these aspects of the proposal are altered.

2. Beds to meet a specific disability need approved through this exception must be used to meet the need identified.

M. Prior approval from the Office for Citizens with Developmental Disabilities is required before admission of all Medicaid recipients to facilities in beds approved to meet a specific disability need identified in a RFP issued by the department.

N. Exception for approved beds in downsizing large residential ICF-DD facilities (16 or more beds).

1. A facility with 16 or more beds which voluntarily downsizes its enrolled bed capacity in order to establish a group or community home will be exempt from the bed need criteria.

a. Beds in group and community homes which are approved under this exception are not included in the bed-to-population ratio or occupancy data for group and community homes approved under the FNR Program.

2. Any enrolled beds in the large facility will be disenrolled from the Title XIX Program upon enrollment of the same number of group or community home beds.

3. When the department intends to downsize the enrolled bed capacity of a state-owned facility with 16 or more beds in order to develop one or more group or community home beds that will be owned by the state, a RFP will be issued.

a. The RFP will be issued and beds shall be made available in accordance with the methods described in this Section;

4. For private facility beds downsized to privately owned group or community homes, these facilities should contact the regional Office for Citizens with Developmental Disabilities in the region where the proposed community or group home beds will be located. These proposals do not require facility need review approval.

O. Exception for Additional Beds for Certain ICFs-DD

1. Any ICF-DD which serves children or adults suffering from mental retardation, autism or behavioral problems and which had no less than 150 and no more than 180 approved beds as of August 15, 2003, shall, upon application to the department, be granted approval for up to 50 additional beds without being required to meet the standards set forth in this Section, §12505 or §12527.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:2613 (December 2008).

### **§12509. Emergency Community Home Bed Pool Exception**

A. The Emergency Community Home Bed Pool consists of all Medicaid enrolled beds which have been authorized to

be transferred from state developmental centers to non state-operated community homes on or before June 30, 2002 in order to address emergency situations on a case-by-case basis.

B. Effective July 1, 2002, the secretary of the department may not authorize the transfer of any beds from the emergency community home bed pool to a non state operated community home unless the bed had been authorized to be transferred to a non state operated community home on or before June 30, 2002 and was subsequently transferred from that facility back to the pool pursuant to the provisions of this Section.

C. Emergency situations which may be addressed through the use of the emergency community home bed pool shall include, but not be limited to situations in which it is difficult or impossible to find a placement for an individual in an ICF-DD because of one of the following:

1. an inadequate number of available ICF-DD beds in the service area to serve the needs of the developmentally disabled population in general;

2. an inadequate number of available ICF-DD beds in the service area to serve the needs of the developmentally disabled population who also have physical or behavioral disabilities or difficulties; or

3. an inadequate number of available ICF-DD beds in the service area to provide for the transition of individuals from residing in large residential facilities to residing within the community.

D. Any agency or individual who becomes aware of an actual or potential emergency situation should contact the Office for Citizens with Developmental Disabilities (OCDD). OCDD shall submit its recommendations to the Facility Need Review Program for emergency placement. OCDD's recommendations shall include:

1. identification of the individual in need of emergency placement,

2. the individual's needs,

3. the service area in which transfer from the emergency community home bed pool is requested, and

4. the names of one or more existing community homes that would be appropriate for the emergency placement.

E. To be eligible for transfer of one or more beds from the emergency community home bed pool, a community home must meet the following requirements, based on documentation provided by the Health Standards Section.

1. The facility must comply with the physical accessibility requirements of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973; or if it does not comply with those requirements, it must have a written plan to be in compliance within 24 months.

2. The facility cannot have been on a termination track or have had any repeat deficiencies within the last 12 months.

3. The facility must meet all square footage requirements, *Life Safety Code* requirements and general construction requirements of 42 CFR Subpart I, Conditions of Participation for Intermediate Care Facilities for the Mentally Retarded, as well as LAC 50:VII.Chapter 301 and LAC 48:I.Chapters 51, 63 and 79.

4. The facility must ensure the provision of sufficient staffing and behavior modification plans to meet the needs of current residents and prevent those residents from being adversely affected by the emergency admission.

F. The secretary shall authorize the transfer of the bed for use at the non state-operated community home. Upon the enrollment of the transferred bed at that community home, the bed shall be permanently transferred to that facility subject to the following conditions.

1. Once the bed is no longer needed to remedy the emergency situation, the facility shall continue to make it available for subsequent emergency placements. However, it may be used temporarily to serve other individuals until it is needed for a new emergency placement.

2. The facility shall make the bed available for a new emergency placement within 72 hours after receiving a request for such placement from the department as set forth herein. If the facility does not comply with such a request, the secretary may, at his discretion, transfer the bed from the facility back to the emergency community home bed pool.

G. Beds which have been placed in the emergency community home bed pool shall be exempt from the bed need criteria and the requirements for requests for proposals which are normally applicable to ICFs-DD.

H. For purposes of the emergency community home bed pool exception, the definition of a service area provided in §12507.A. is applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), LR 34:2614 (December 2008).

### **§12511. Nursing Facilities**

A. The service area for proposed or existing nursing facilities or beds is the parish in which the site is located. Exceptions are the parishes of Ascension, Iberville, Plaquemines and St. John, each of which is composed of two separate service areas as divided by the Mississippi River.

B. Nursing facility beds located in "distinct parts" of acute care general hospitals must be approved through FNR in order to be enrolled to participate in the Medicaid Program.

C. In reviewing the need for beds, all proposed beds shall be considered available as of the projected date of the project. The FNR Program does not recognize the concept of "phasing-in" beds, whereby an applicant provides two or more opening dates.

D. For reviews in which the bed to population ratio is a factor, the bed inventory which will be used is that which is current on the date on which the complete application is received.

1. The bed to population ratio will be recomputed during the review period when the report is incorrect due to an error by the department.

E. For reviews in which utilization is a factor, the occupancy report which will be used is that which is current on the date on which the complete application is received.

1. The occupancy rate will be recomputed during the review period when the report is incorrect due to an error by the department.

F. In determining occupancy rates of nursing facilities or beds:

1. beds for which occupancy shall be based shall include nursing facility beds (skilled, IC-I and IC- II) which are enrolled in Title XIX;

2. each licensed bed shall be considered as available for utilization for purposes of calculating occupancy; and

3. a bed shall be considered in use, regardless of physical occupancy, based on payment for nursing services available or provided to any individual or payer through formal or informal agreement.

G. The beds and population of the service area where the facility is located, or is proposed to be located, will be considered in determining need for the facility or beds.

1. The beds which are counted in determining need for nursing facilities or beds are approved, licensed beds and approved, unlicensed beds as of the due date for decision on an application.

H. Data sources to be used include information compiled by the FNR Program and the middle population projections recognized by the State Planning Office as official projections. Population projections to be used are those for the year in which the beds are to be enrolled in the Medicaid Program.

I. In order for additional beds or facilities to be added in a service area, the bed-to-population ratio for nursing facility beds shall not exceed 65 Medicaid approved beds per 1,000 elderly population in a service area, and the average annual occupancy for the four most recent quarters (as reported in the LTC-2) shall exceed 95 percent in the service area.

J. Exceptions for areas with high occupancy rates may be considered in the following situations.

1. A Medicaid enrolled nursing facility which maintains 98 percent average annual occupancy of its enrolled beds for the four most recent quarters (as reported in the LTC-2) may apply for approval of additional beds to be enrolled in the Medicaid Program.

a. In order for an application to be considered, all approved beds in the facility must be enrolled in Title XIX.

b. In order for a facility to reapply for additional beds, all approved beds must be enrolled in Title XIX for the four most recent quarters, as reported in the LTC-2.

c. The number of beds for which application may be made shall not exceed 10 beds.

d. In determining occupancy rates for purposes of this exception, only an adjustment of one additional day after the date of death, for the removal of personal belongings, shall be allowed if used for that purpose.

i. This adjustment shall not be allowed if nursing services available or provided to another individual are paid for through formal or informal agreement in the same bed for that time period.

e. In determining occupancy rates, more than one nursing facility bed enrolled in Title XIX shall not be considered occupied by the same resident, regardless of payment for nursing services available or provided.

f. For a Medicaid enrolled nursing facility with high occupancy to apply for additional bed approval, documentation of availability of health manpower for the proposed expansion shall be required.

g. For a Medicaid enrolled nursing facility with high occupancy to apply for additional bed approval, for the

most recent 36 months preceding the date of application, compliance history and quality of care performance of the applicant facility must be void of any of the following sanctions:

i. appointment of a temporary manager;

ii. termination, non-renewal or cancellation, or initiation of termination or non-renewal of provider agreement; or

iii. license revocation or non-renewal.

2. When average annual occupancy for the four most recent quarters (as reported in the LTC-2) exceeds 95 percent in a parish, the department will determine whether additional beds are needed, and if indicated, may issue a request for proposals (RFP) to develop the needed beds.

a. Upon issuance of the utilization report, the department will identify the parishes with average annual occupancy in excess of 95 percent. The LTC-2 is issued by the department in the fourth month following the end of each calendar quarter.

b. In order to determine if additional beds are needed for each parish in which average annual occupancy is in excess of 95 percent, the department may review the census data, utilization trends, and other factors such as:

i. special needs in an area;

ii. information received from other health care providers and other knowledgeable sources in the area;

iii. waiting lists in existing facilities;

iv. requests from the community;

v. patient origin studies;

vi. appropriateness of placements in an area;

vii. remoteness of an area;

viii. occupancy rates in adjoining and/or adjacent parishes;

ix. availability of alternatives;

x. reasonableness of distance to facilities;

xi. distribution of beds within a service area or geographical area; and

xii. such other factors as the department may deem relevant.

c. The number of beds which can be added shall not exceed 15 percent of the existing approved beds in the parish, or 120 beds, whichever is less. The department will strive to assure that occupancy in existing facilities in the area will not decline below 85 percent as a result of the additional beds;

3. If the department determines that there is, in fact, a need for beds in a parish with average annual occupancy in excess of 95 percent, a RFP will be issued. No applications will be accepted under these provisions unless the department declares a need and issues a RFP. Applications will be accepted for expansions of existing facilities and/or for the development of new facilities.

a. The RFP will be issued through newspaper publication, and will specify the dates during which the department will accept applications. Also, nursing facilities in the service area and adjoining parishes will be notified of the issuance of the RFP.

b. The RFP will indicate the parish and/or area in need of beds, the number of beds needed, the date by which the beds are needed to be available to the target population (enrolled in Medicaid), and the factors which the department considers relevant in determining need for the additional

beds. The RFP will specify the LTC-2 on which the determination of need is based.

c. Applications will be accepted for a 30-day period, to be specified in the RFP. Once submitted, an application cannot be changed and additional information will not be accepted.

d. The department will review the proposals and independently evaluate and assign points (out of a possible 120) to the applications as follows:

i. 0-20 points: Availability of beds to the Title XIX population.

NOTE: Work plan for Medicaid certification and availability of site for the proposal.

ii. 0-20 points: Appropriateness of location, or proposed location.

NOTE: Accessibility to target population, relationship or cooperative agreements with other health care providers, and distance to other health care providers.

iii. 0-20 points: Responsiveness to groups with special needs (e.g. AIDS patients, ventilator assisted patients; technology dependent patients);

iv. 0-20 points: Experience and availability of key personnel (e.g., director of nursing, administrator, medical director);

v. 0-20 points: Distribution of beds/facilities within the service area. Geographic distribution of existing beds and population density will be taken into account.

e. A score of 0-20 will be given to the applicant's response to each item using the following guideline:

i. 0 = inadequate response;

ii. 5 = marginal response;

iii. 10 = satisfactory response;

iv. 15 = above average response; and

v. 20 = outstanding response.

f. If there is a tie for highest score for a specific facility or beds, a comparative review of the top scoring proposals will be conducted. In the case of a tie, the department will make a decision to approve one of the top scoring applications based on comparative review of the proposals.

g. If no proposals are received which adequately respond to the need, the department may opt not to approve an application.

h. At the end of the 60-day review period, each applicant will be notified of the department's decision to approve or disapprove the application. However, the department may extend the evaluation period for up to 30 days. Applicants will be given 30 days from the date of receipt of the department's notification by in which to file an appeal.

i. The issuance of the approval of the application with the highest number of points shall be suspended during the 30-day period for filing appeals and during the pendency of any administrative appeal. All administrative appeals shall be consolidated for purposes of the hearing.

4. Proposals submitted under these provisions are bound to the description in the application with regard to the type of beds and/or services proposed as well as to the site/location as defined in the request issued by the department.

a. Approval for Medicaid certification shall be revoked if these aspects of the proposal are altered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), LR 34:2615 (December 2008).

### **§12513. Alternate Use of Licensed Approved Title XIX Beds**

A. In a service area in which average annual occupancy is lower than 93 percent, a nursing home may elect to temporarily convert a number of Title XIX beds to an alternate use (e.g., adult day care).

1. The beds may be converted for alternate use until such time as the average annual occupancy in the service area exceeds 93 percent (based on the LTC-2 report) and the facility is notified of the same.

2. The facility shall then either re-enroll the beds as nursing home beds within one year of receipt of notice from the department that the average annual occupancy in the service area exceeds 93 percent.

3. The approval for beds not re-enrolled by that time will be expired.

B. A facility is prohibited from adding beds when alternately using beds.

C. All approved beds must be enrolled as nursing home beds in Title XIX for the four most recent quarters, as reported in the department's occupancy report, in order for additional beds to be approved.

D. A total conversion of all beds is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), LR 34:2617 (December 2008).

### **§12515. Additional Beds for Replacement Facility**

A. A nursing facility that has had all approved beds enrolled for the four most recent quarters (as reported in the LTC-2) and is structurally older than 25 years, may apply for approval for additional beds to be enrolled in the Medicaid Program in a replacement facility.

B. The number of beds for which an application may be made shall not exceed 20 beds, with the following exception:

1. a facility may be approved for sufficient beds to bring the total approved beds in the replacement facility to 80.

C. A facility shall not be approved for beds that would exceed 130 total approved beds in the replacement facility.

D. Sufficient documentation must be submitted to demonstrate to the department's satisfaction that the facility is structurally older than 25 years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), LR 34:2617 (December 2008).

### **§12517. Adult Residential Care Provider**

A. The FNR Program will determine the number of adult residential care provider (ARCP) units to be licensed by the department. No ARCP unit shall be licensed to operate unless the FNR Program has granted an approval for the

licensed ARCP unit. Once the FNR Program approval is granted, the unit is then eligible to be licensed by the department, subject to meeting all the requirements for licensure.

1. An existing licensed nursing facility that converts Medicaid approved nursing facility beds to ARCP units shall be automatically granted FNR approval for the converted units. The nursing home must submit an application to the department requesting the approval. The application must detail the Medicaid approved nursing home beds being converted.

B. The service area for proposed or existing adult residential care units is the parish in which the units are to be located. Exceptions are the parishes of Ascension, Iberville, Plaquemines and St. John, each of which is composed of two separate service areas divided by the Mississippi River.

C. Determination of Need Methodology

1. Population Based Methodology. The FNR Program methodology projects the need for ARCP units to be 15 units per 1,000 persons who are 65 years old and older for each service area. The approved unit to population ratio for ARCP shall not exceed 15 units per 1000 persons who are 65 years old and older except as provided for in paragraph three.

2. The need for facilities will be projected five years forward using the most recent census data available from the Louisiana State Division of Administration.

3. Approval for additional units or facilities may be granted by the department if the service area's average annual occupancy for the four most recent quarters exceeds 98 percent. Approval for additional units in new or existing ARCP facilities shall be granted in increments not to exceed 20 units.

D. ARCP facilities that have approval for licensed units shall submit quarterly reports to the DHH Office of Aging and Adult Services (OAAS). The report shall contain the facility's patient/resident days and such other information as determined by OAAS.

E. Applications for approvals of licensed units submitted under these provisions are bound to the description in the application with regard to the type of units and/or services proposed as well as to the site/location as defined in the application. FNR approval of licensed units shall expire if these aspects of the application are altered.

F. FNR approvals for licensed units are non-transferable. Approvals for licensed units are limited to location and name of original licensee.

1. No portion of the units may be transferred to another party or moved to another location without the submission of a new application to and approval by the department's FNR Program. Approval of licensed units shall automatically expire if moved or transferred without application to and approval by the FNR Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2617 (December 2008).

**§12519. Conversion of Medicaid Approved Nursing Facility Beds to Adult Residential Care Provider Units**

A. Existing licensed nursing facilities that convert Medicaid approved beds to ARCP units will be automatically granted FNR approval of licensed ARCP units,

upon submission of a completed application to the FNR Program.

B. Existing licensed nursing homes shall convert Medicaid approved beds to ARC units on a ratio of four Medicaid approved nursing facility beds for each approved ARCP unit if the existing nursing home facility structure is utilized.

1. Nursing facilities that build new ARC buildings shall surrender two Medicaid approved beds for each approved ARCP unit. The license for any such converted nursing facility bed is surrendered at the date of conversion.

C. Conversion of nursing facility beds to ARCP units is irrevocable and units so converted may not be returned to nursing facility service, except in the case of a gubernatorial or presidential declaration of emergency or natural disaster.

1. In the case of an emergency or natural disaster, the nursing home use shall be temporary, not to exceed six months.

D. Conversion Requirements

1. A nursing facility that utilizes the existing facility structure to convert Medicaid approved beds to ARCP units will have the square footage associated with those converted beds removed from its nursing facility fair rental value calculation.

2. If a nursing facility which constructs a new ARC building certifies that it will utilize the space associated with the converted beds for other nursing facility use, then nursing facility will not have the square footage associated with those converted beds removed from its nursing facility fair rental value calculation.

a. If a nursing home which constructs a new ARC building utilizes the converted space for any purposes other than nursing facility services associated with the remaining licensed beds in the facility, then the nursing facility will have the square footage associated with those converted beds removed from its nursing facility fair rental value calculation.

3. Beds forfeited for purposes of ARC units cannot simultaneously be utilized to convert semi-private rooms to private rooms or be used for any other separate benefits in the rate methodology.

E. The date of conversion shall be the date that plan approval is granted by DHH Engineering and Architectural Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2618 (December 2008).

**§12521. Architectural and Licensing Compliance**

A. The following time frames shall apply for complying with the requirements for obtaining approval of architectural plans and licensure.

1. ARCP units which are converted from Medicaid approved beds in existing nursing facilities shall have final architectural plans approved no later than six months from the date of the FNR approval. Such units shall be licensed within one year from the date of the FNR approval.

2. ARCP units which are converted from Medicaid approved nursing facility beds in new facilities shall have final architectural plans approved no later than six months from the date of the FNR approval. Such units shall be

licensed within 24 months from the date of the FNR approval.

3. ARCP units which are to be licensed in existing adult residential facilities shall have final architectural plans approved no later than six months from the date of the FNR approval. Such units shall be licensed within one year from the date of the FNR approval.

4. ARCP units which are to be licensed in new adult residential facilities shall have final architectural plans approved no later than six months from the date of the FNR approval. Such units shall be licensed within 24 months from the date of the FNR approval.

B. A one-time 90 day extension may be granted, at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant. Inappropriate zoning is not a basis for extension.

C. Failure to meet any of the timeframes in this Section could result in an automatic expiration of the FNR approval of the ARCP units.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2618 (December 2008).

**§12523. Reserved.**

**§12525. Reserved.**

### **Subchapter C. Revocation of Facility Need Review Approvals**

#### **§12527. General Provisions**

##### **A. Nursing Facilities**

1. Beds which are added to an existing, licensed facility must be enrolled in the Title XIX Program within one year of the date of approval by the FNR Program.

2. New nursing facilities which are approved to be constructed must be enrolled in the Title XIX Program within 24 months of the date of the approval.

3. An extension may be granted, at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant (e.g., acts of God). Inappropriate zoning is not a basis for extension.

B. Intermediate Care Facilities for the Developmentally Disabled

1. Group and community home beds must be enrolled in the Title XIX Program within nine months of the date of approval by the Facility Need Review Program.

2. A one-time 90-day extension may be granted, at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant (e.g., acts of God). Inappropriate zoning is not a basis for an extension.

3. If the beds are not enrolled in the Title XIX program within the time limits specified in this Section, the approval will automatically expire.

C. Approval of a group or community home bed shall be revoked when the Office for Citizens with Developmental Disabilities advises that the bed, which was approved for Title XIX reimbursement to meet a specific disability need identified in a RFP issued by the department, is not being used to meet that identified need based on the facility serving a Medicaid recipient in the bed without prior approval from the OCDD.

D. Except as provided in Subchapter E of this Chapter, approval shall be revoked under the following circumstances:

1. a facility's license is revoked, not renewed, or denied, unless the facility obtains a license within 120 days from the date of such revocation, nonrenewal or denial;

2. a facility's provider agreement is terminated unless, within 120 days thereof, the facility enters into a new provider agreement.

E. Except as provided in Subchapter E of this Chapter, beds may not be disenrolled except as provided under the alternate use policy and during the 120-day period to have beds relicensed or recertified. The approval for beds disenrolled will automatically expire except as otherwise indicated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:2619 (December 2008).

### **Subchapter D. Relocation of Nursing Facility Beds §12529. General Provisions**

A. A nursing facility's approved beds cannot be relocated to a different service area.

B. Approved beds may be relocated only under the following conditions.

1. Subject to the exception provided in Subparagraph 2, all of the approved beds must be relocated to a single new location.

a. The approval of any beds not relocated to that new location shall be revoked.

2. Notwithstanding the requirements of Subparagraph 1, a partial relocation of approved beds may be effected if the following conditions are met:

a. the approved beds are in a nursing facility owned by a hospital service district as of the date of adoption of this rule and at the time of the partial relocation;

b. the partial relocation does not place the approved beds in a different service area;

c. the approved beds are relocated to the site of a currently operational hospital owned by the same or a different hospital service district.

i. If the new location is owned by a different hospital service district, the ownership of the approval of the relocated beds must be transferred to the hospital service district to which the beds are relocated; and

d. no more than 25 percent of the nursing facility's approved beds are relocated.

3. If, within five years after a partial relocation to a hospital site pursuant to Subparagraph 2, the hospital located at that site ceases operations, the relocated beds shall revert to the original facility from which they were relocated. This provision shall not apply to relocations which require a transfer of ownership of the approval of the relocated beds.

4. A hospital service district may relocate or transfer the ownership of the approval of approved beds pursuant to Subparagraph c only once.

5. Subparagraphs B.2., B.3. and B.4. are not intended to prohibit or restrict the relocation of all of the approved beds in a nursing facility by a hospital service district in accordance with Paragraph A. and Subparagraph B.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2007), LR 34:2619 (December 2008).

**Subchapter E. Nursing Facility Bed Abeyance**  
**§12531. General Provisions**

A. A nursing facility may have all of its approved beds disenrolled from the Medicaid Program and placed in abeyance if the department determines that the average annual occupancy in the service area where the facility is located is less than 85 percent. The department shall base this determination on the occupancy figures contained in the most recent LTC-2 report issued by the department prior to its receipt of a written request that the facility's beds be placed in abeyance in accordance with Paragraph B of this Section.

B. In order to request that a facility's beds be placed in abeyance, all persons or entities who are the holders of the approval, the nursing facility license, and the Medicaid provider agreement must submit to the department a written request signed by each such person or entity. The written request shall:

1. specify the date (which must be no later than 120 days after the receipt of the request by the department) on which the intended closure of the facility will occur; and

2. designate an individual (referred to hereinafter as the "designated contact person") who shall serve as the contact between the party(ies) submitting the request and the department with respect to all matters involving the placing of the facility's beds in abeyance and their removal from abeyance.

a. The written request must include the mailing address and telephone number of that person.

b. If the designated contact person is changed, a written notice thereof, signed by each person or entity who submitted the original request, shall be given to the department.

C. If the department determines that the requirements set forth (Paragraphs A. and B.) have been met, it shall issue a written Notice of Abeyance and forward it to the designated contact person within 30 calendar days after its receipt of the request for abeyance, subject to the provisions of Paragraph L. If the department determines that these requirements have not been met or that the issuance of a Notice of Abeyance would conflict with Paragraph L, it shall issue a written denial and forward it to the designated contact person within 30 calendar days after its receipt of the request.

D. All of a facility's approved beds must be disenrolled from the Medicaid Program within 120 days after the designated contact person's receipt of a Notice of Abeyance. An extension not to exceed 90 days may be granted if extenuating circumstances warrant said extension, such as safe transfer of patients. Otherwise, the notice of abeyance will automatically expire at the end of the 120-day period.

E. All of a facility's approved beds may be disenrolled before the designated contact person's receipt of a notice of abeyance. However if he or she does not receive a notice of abeyance within 120 days after the beds are disenrolled, the provisions of §12527.D and E will be applicable.

F. With respect to the facility's beds which are not designated to be re-enrolled as Medicaid nursing facility beds, the approval shall automatically expire after 120 days

from receipt of the notice of abeyance by the designated contact person; unless the beds are re-enrolled by that date, thus rescinding the notice of abeyance.

G. A Notice of Abeyance shall remain in effect until the facility's beds are taken out of abeyance and are re-enrolled in Medicaid.

H. A facility's beds shall remain in abeyance until the average annual occupancy in the facility's service area, as shown in the most recent LTC-2 report, has exceeded 93 percent.

I. If the department determines that the average annual occupancy in the facility's service area, as shown in the most recent LTC-2 report, has exceeded 93 percent, it shall give written notice thereof to the designated contact person.

1. The written notice shall specify the number of the facility's approved beds which must be taken out of abeyance and re-enrolled as Medicaid nursing facility beds.

2. That number shall be determined by the department based upon the following criteria.

a. A nursing facility with 120 or fewer enrolled beds at the time of the request may return all of its enrolled beds from abeyance.

b. A nursing facility with 121 to 160 enrolled beds at the time of the request may return up to 80 percent of its beds from abeyance, but in no case shall it be required to return fewer than 120 beds.

c. A nursing facility with 161 or more enrolled beds at the time of the request may return up to 75 percent of its beds from abeyance, but in no case shall it be required to return fewer than 128 beds, nor shall it be allowed to return more than 175 beds.

d. A nursing facility may choose to return fewer beds from abeyance than are allowed by this Subparagraph and if it does so, the balance of the beds shall be disenrolled.

J. Within one year after the receipt of the written notice described in Paragraph I. (or, in the case of new construction for a replacement facility, within 24 months after the receipt of such notice), the beds specified by the department must be taken out of abeyance and re-enrolled as Medicaid nursing facility beds.

1. An extension of that time may be granted at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant (e.g., acts of God).

2. Inappropriate zoning is not a basis for extension.

3. If the facility's beds which are designated to be re-enrolled as Medicaid nursing facility beds are not re-enrolled within the specified time period, the approval for those beds will automatically expire at the end of that period.

K. If, after issuing the written notice provided in Paragraph I to the designated contact person, the department determines that the requirement set forth in Paragraph H is no longer met, the obligation to place the facility's beds back in service in accordance with Paragraph J shall not be affected or negated.

L. If two or more requests to place beds in abeyance are pending at the same time, and the issuance of Notices of Abeyance for all of the pending requests would conflict with this Paragraph, priority shall be assigned to the requests as follows.

1. If two or more facilities are located in the same service area, a request with respect to a facility having a

lower average annual occupancy rate shall have priority over a request with respect to a facility having a higher average annual occupancy rate, based on the most recent LTC-2 report issued by the department.

M. While a facility's beds are in abeyance, the ownership of the approval for those beds may not be transferred and shall not be subject to any legal device.

N. All of a facility's beds which are taken out of abeyance and re-enrolled in the Medicaid Program must remain located together in one facility, which shall be either the original facility in which they were located before being placed in abeyance or another facility located in the same service area as the original facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1023 (May 2004), amended LR 34:2620 (December 2008).

## **Subchapter F. Administrative Appeals**

### **§12533. Appeal Procedures**

A. Upon refusal of the department to grant a FNR approval, only the applicant shall have the right to request an administrative appeal.

1. A written request for such an appeal must be submitted by registered mail to the Secretary of the Department of Health and Hospitals within 30 days after the notification of disapproval is received by the applicant.

2. A fee of \$500 shall accompany a request for an appeal.

B. Hearings shall be conducted by a hearing officer designated by the governor, provided that no person who has taken part in any prior consideration of, or action upon, the application may conduct such hearings.

1. However, a hearing officer who presided over a hearing and remanded the matter to the department may hear a subsequent appeal of the same application if the department again disapproves the application.

C. The hearing shall be conducted within 30 days after receipt of the written request for the hearing.

1. Requests by the department or the applicant for extensions of time within which to conduct a hearing may be granted at the discretion of the hearing officer, provided that if the hearing is not concluded within 180 days from the date of receipt by the applicant of notification of disapproval, the decision of the department will be considered upheld.

2. The hearing shall be open to the public.

D. The hearing officer shall have the power to:

1. administer oaths and affirmations;
2. regulate the course of the hearings;
3. set the time and place for continued hearings;
4. fix the time for filing briefs and other documents;

and

5. direct the parties to appear and confer to consider the simplification of the issues.

E. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs may be admitted and given probative effect. The rules of privilege recognized by law shall be given effect. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing can be expedited and the

interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

F. All evidence, including records and documents in the possession of DHH of which it desires to avail itself, shall be offered and made part of the records. All such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

1. In the case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence. Notice may be taken of judicially cognizable facts.

2. In addition, notice may be taken of generally recognized technical or scientific facts within DHH's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material notices, including any staff memoranda or data. They shall be afforded an opportunity to contest the material so noticed.

G. The hearing officer shall have the power to sign and issue subpoenas, or to direct the department to do so, in order to require attendance and the testimony by witnesses and to require the productions of books, papers and other documentary evidence.

1. The applicant is required to notify the hearing officer in writing at least 10 days in advance of the hearing of those witnesses whom he wishes to be subpoenaed.

2. No subpoena shall be issued until the party (other than the department) who wishes to subpoena a witness first deposits with the hearing officer a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671.

3. DHH may request issuance of subpoenas without depositing said sum of money. The witness fee may be waived if the person is an employee of DHH.

4. When any person summoned under this Section neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony as required, DHH may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt.

a. It shall be the duty of the judge to hear the application and, if satisfactory proof is made, to issue an attachment directed to some proper officer for the arrest of such person.

b. Upon such person being brought before him, the judge shall proceed with the hearing of the case.

c. Upon such hearing, the judge may issue such order as he shall deem proper, not inconsistent with the law for the punishment of contempt, to enforce obedience to the requirements of the summons and to punish such person for this default or disobedience.

H. The department or any party to the proceedings may take the deposition of witnesses, within or without the state, in the same manner as provided by law for the taking of depositions in civil actions in courts of record. Depositions so taken shall be admissible in the review proceeding at issue. The admission of such depositions may be objected to at the time of hearing and may be received in evidence or excluded from the evidence by the hearing officer in accordance with the rules of evidence provided in this Section.

I. The applicant, the department, any other agency which reviewed the application, and other interested parties (including members of the public and representatives of health services consumers) shall be permitted to give testimony and present arguments at the hearing without formally intervening. Such testimony and arguments shall be presented after the testimony of the applicant and DHH has been presented, or at the discretion of the hearing officer, at any other convenient time. When such testimony is presented, all parties may cross-examine the witness.

J. A record of the hearing proceeding shall be maintained. Copies of such record together with copies of all documents received in evidence shall be available to the parties, provided that any party who requests copies of such material may be required to bear the costs thereof.

K. The hearing officer shall notify all parties, in writing or on the record, of the day on which the hearing will conclude and of any changes thereto; provided that a hearing must be concluded in accordance with the time requirements specified in this Section.

1. As soon as practicable, but not more than 45 days after the conclusion of a hearing, the hearing officer shall send his written decision and the reasons for the decision to the applicant, the department, and any interested parties who participated in the hearing.

2. Such decisions shall be publicized by the department through local newspapers and public information channels.

3. After rendering his decision, the hearing officer shall transmit the record of the hearing to the department.

L. An applicant who fails to have the disapproval reversed shall forfeit his filing fee.

M. Judicial review of the decision of the hearing officer shall be in accordance with the provisions of R.S. 49:964 provided, however, that only an applicant aggrieved by the decision of the hearing officer shall have the right to judicial review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:812 (August 1995), amended LR 34:2621 (December 2008).

Alan Levine  
Secretary

0812#081

## RULE

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

#### Minimum Licensing Standards for Adult Day Health Care (LAC 48:I.Chapter 42)

Editor's Note: This Rule is being repromulgated because of an error upon submission. The original Rule can be viewed in its entirety on page 2177 of the October 20, 2008 *Louisiana Register*.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 48:I.Chapter 42 in the Medical Assistance Program as

authorized by R.S. 36:254 and R.S. 40:2120.41-46, and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

## Title 48

### PUBLIC HEALTH—GENERAL

#### Part 1. General Administration

##### Subpart 3. Licensing and Certification

#### Chapter 42. Adult Day Health Care

##### Subchapter A. General Provisions

#### §4201. Introduction

A. The purpose of Adult Day Health Care (ADHC) services is to provide an alternative to or a possible prevention or delay of 24-hour institutional care by furnishing direct care for a portion of the day to adults who have physical, mental, or functional impairments. An ADHC shall be operational for at least five hours each day of operation. An ADHC center shall be operational for at least five days per week. An ADHC center shall protect the health, safety, welfare, and well-being of participants attending ADHC centers.

B. An ADHC center shall have a written statement describing its philosophy as well as long-term and short-term goals. The provider program statement shall include goals that:

1. promote the participant's maximum level of independence;

2. maintain the participant's present level of functioning as long as possible, while preventing or delaying further deterioration;

3. restore and rehabilitate the participant to the highest level of functioning;

4. provide support and education for families and other caregivers;

5. foster participation, socialization and peer interaction; and

6. serve as an integral part of the community services network and the long-term care continuum of services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2177 (October 2008), repromulgated LR 34:2622 (December 2008).

#### §4203. Definitions

*Activities of Daily Living (ADL)*—the functions or tasks which are performed either independently or with supervision, or assistance for mobility (i.e., transferring, walking, grooming, bathing, dressing and undressing, eating and toileting).

*Adult Day Health Care (ADHC)*—a medical model adult day health care program designed to provide services for medical, nursing, social, and personal care needs to adults who have physical, mental or functional impairments. Such services are rendered by utilizing licensed professionals in a community based nursing center.

*Adult Day Health Care Center*—any place owned or operated for profit or nonprofit by a person, society, agency, corporation, institution, or any group wherein two or more functionally impaired adults who are not related to the owner or operator of such agency are provided with adult day health care services. This center type will be open and

providing services at least five continuous hours in a 24-hour day.

*Change of Ownership (CHOW)*—a change in the legal provider/entity responsible for the operation of the ADHC center.

*Chemical Restraint*—any drug that is used for discipline or convenience and when it is not required to treat medical symptoms.

*Complaints*—allegations of noncompliance with regulations filed by someone other than the provider.

*Department*—the Louisiana Department of Health and Hospitals (DHH) and its representatives.

*Direct Care Staff*—unlicensed staff who provide personal care or other services and support to persons with disabilities or to the elderly to enhance their well-being, and who are involved in face-to-face direct contact with the participant.

*Director*—a full time person engaged in the day-to-day management of the center in which management activities shall be the major function of the required duties.

*Elopement*—to slip away or run away.

*Functionally Impaired Adults*—persons 17 years of age or older who are physically and/or mentally impaired and require services and supervision for medical, nursing, social, and personal care needs.

*Governing Body*—the person or group of persons that assumes full legal responsibility for determining, implementing and monitoring policies governing the ADHC's total operation, and who is responsible for the day-to-day management of the ADHC program, and must also insure that all services provided are consistent with accepted standards of practice.

*Individualized Service Plan*—an individualized written program of action for each participant's care and services to be provided by the ADHC center based upon an assessment of the participant.

*Involuntary Discharge/Transfer*—a discharge or transfer of the participant from the ADHC center that is initiated by the center.

*Licensed Practical Nurse (LPN)*—an individual currently licensed by the Louisiana State Board of Practical Nurse Examiners to practice practical nursing in Louisiana. The LPN works under the supervision of a registered nurse.

*Minimal Harm*—negative impact of injury causing the least possible physical or mental damage.

*Participant*—an individual who attends an adult day health care center.

*Physical Restraint*—any manual method (ex: therapeutic or basket holds and prone or supine containment) or physical or mechanical device material (ex: arm splints, leg restraints, lap trays that the participant cannot remove easily, posey belts, posey mittens, helmets), or equipment attached or adjacent to the participant's body that interferes or restricts freedom of movement or normal access to one's body and cannot be easily removed by the participant.

*Primary Care Physician*—a physician, currently licensed by the Louisiana State Board of Medical Examiners, who is designated by the participant or his personal representative as responsible for the direction of the participant's overall medical care.

*Program Manager*—a full-time designated staff person, formerly known as the program director, who is responsible

for carrying out the center's individualized program for each participant.

*Progress Notes*—ongoing assessments of the participant which enable the staff to update the individualized service plan in a timely, effective manner.

*Registered Nurse (RN)*—an individual currently licensed by the Louisiana State Board of Nursing to practice professional nursing in Louisiana.

*Personal Representative*—an adult relative, friend or guardian of a participant who has an interest or responsibility in the participant's welfare. This individual may be designated by the participant to act on his/her behalf and should be notified in case of emergency and/or any change in the condition or care of the participant.

*Revocation*—action taken by the department to terminate an ADHC center's license.

*Social Service Designee/Social Worker*—an individual responsible for arranging any medical and/or social services needed by the participant.

*Voluntary Discharge/Transfer*—a discharge or transfer of the participant from the ADHC center that is initiated by the participant or a legal or personal representative.

*Volunteer*—a person who provides services at an adult day health care center without compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2177 (October 2008), repromulgated LR 34:2622 (December 2008).

#### **§4205. Licensure Requirements**

A. All ADHC centers shall be licensed by the Department of Health and Hospitals (DHH). DHH is the only licensing authority for ADHC centers in the State of Louisiana. It shall be unlawful to operate an ADHC center without possessing a current, valid license issued by DHH. The license shall:

1. be issued only to the person/entity named in the license application;
2. be valid only for the ADHC center to which it is issued and only for the specific geographic address of the center;
3. be valid for one year from the date of issuance, unless revoked prior to that date;
4. expire on the last day of the twelfth month after the date of issuance, unless otherwise renewed;
5. not be subject to sale, assignment, or other transfer, voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

B. In order for an ADHC center to be considered operational and retain licensed status, the center shall meet the following conditions.

1. The center shall always have at least one employee on duty at the business location during daily hours of operation. Once a participant is admitted, all staff that are required to provide services shall be on duty during operational hours to assure adequate coverage and care to participants.
2. There shall be staff employed and available to be assigned to provide care and services to persons receiving services at all times.

3. The center must have admitted or has provided services to at least two participants in the past 12 months prior to their licensure resurvey.

C. The licensed provider is required to abide by and adhere to any state laws, rules, policy and procedure manuals or memorandums pertaining to ADHC centers issued by DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2178 (October 2008), repromulgated LR 34:2623 (December 2008).

#### **§4207. Initial License Application Process**

A. An initial application for licensing as an ADHC center shall be obtained from the department. A completed initial license application packet for an ADHC center shall be submitted to and approved by DHH prior to an applicant providing ADHC services. An applicant shall submit a completed initial licensing packet to DHH, which shall include:

1. a completed ADHC licensure application and the non-refundable licensing fee as established by statute;
2. a copy of the approval letter of the architectural center plans from the Department of Health and Hospitals, Department of Engineering and Architectural Services and the Office of the State Fire Marshal;
3. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal;
4. a copy of the health inspection report with approval of occupancy report of the center from the Office of Public Health;
5. a copy of criminal background checks on all owners;
6. proof of financial viability including:
  - a. line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000;
  - b. general and professional liability insurance of at least \$300,000; and
  - c. worker's compensation insurance;
7. if applicable, clinical laboratory improvement amendments (CLIA) certificate or CLIA certificate of waiver;
8. a completed disclosure of ownership and control information form;
9. a floor sketch or drawing of the premises to be licensed;
10. the days and hours of operation; and
11. any other documentation or information required by the department for licensure.

B. If the initial licensing packet is incomplete, the applicant will be notified of the missing information and will have 90 days to submit the additional requested information. If the additional requested is not submitted to the department within 90 days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ADHC provider shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

C. Once the initial licensing application packet is approved by DHH, the applicant shall attend a mandatory

preparatory training class conducted quarterly by the department's Health Standards Section (HSS) before the initial licensure survey will be conducted. Once the provider has successfully completed the class, the provider will be sent written notification with instructions for requesting the announced initial licensing survey.

D. An applicant who has received the notification with instructions for requesting the announced initial licensing survey shall notify DHH of readiness for an initial licensing survey within 90 days of the date of receipt of that notification. If an applicant fails to notify DHH of readiness for an initial licensing survey within 90 days, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ADHC provider shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

E. Applicants must be in compliance with all appropriate federal, state, departmental, or local statutes, laws, ordinances, rules, regulations, and fees before the ADHC center will be issued an initial license to operate by DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2178 (October 2008), repromulgated LR 34:2624 (December 2008).

#### **§4209. Initial Licensing Surveys**

A. Prior to the initial license being issued to the ADHC provider, an initial licensing survey shall be conducted on-site at the ADHC center to assure compliance with ADHC licensing standards.

B. In the event that the initial licensing survey finds that the ADHC center is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

C. In the event that the initial licensing survey finds that the ADHC center is noncompliant with any licensing laws or regulations that are a threat to the health, safety, or welfare of the participants, the department shall deny the initial license.

D. In the event that the initial licensing survey finds that the ADHC center is noncompliant with any other required statutes, laws, ordinances, rules or regulations that are a threat to the health, safety, or welfare of the participants, the department shall deny the initial license.

E. In the event that the initial licensing survey finds that the ADHC center is noncompliant with any licensing laws or regulations, but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the department may issue a provisional initial license for a period not to exceed six months. The provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, then a full license will be issued. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional license will expire and the provider shall be

required to begin the initial licensing process again by submitting a new initial license application packet and fee.

F. In the event that the initial licensing survey finds that the ADHC center is noncompliant with any required statutes, laws, ordinances, rules or regulations, but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the department may issue a provisional initial license for a period not to exceed six months. The provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional license will expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

G. The initial licensing survey of an ADHC provider shall be an announced survey. Follow-up surveys to the initial licensing surveys are not announced surveys.

H. Once an ADHC provider has been issued an initial license, the department shall conduct licensing surveys at intervals deemed necessary by DHH to determine compliance with licensing regulations; these licensing surveys shall be unannounced.

1. A follow-up survey shall be conducted for any licensing survey where deficiencies have been cited to ensure correction of the deficient practices.

2. The department may issue appropriate sanctions, including, but not limited to:

- a. civil monetary penalties;
- b. directed plans of correction; and
- c. license revocations for deficiencies and noncompliance with any licensing survey.

I. DHH surveyors and staff shall be given access to all areas of the center and all relevant files during any licensing survey. DHH surveyors and staff shall be allowed to interview any provider staff or participant as necessary to conduct the survey.

J. When issued, the initial ADHC license shall specify the maximum number of participants which may be served by the ADHC center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2179 (October 2008), repromulgated LR 34:2624 (December 2008).

#### **§4211. Types of Licenses**

A. The Department shall have the authority to issue the following types of licenses.

1. In the event that the initial licensing survey finds that the ADHC center is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the provider. The license shall be valid until the expiration date shown on the license unless the license is modified, revoked, suspended, or terminated.

2. In the event that the initial licensing survey finds that the ADHC center is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, the department is

authorized to issue a provisional initial license pursuant to the requirements and provisions of this §4209.

3. The department may issue a full renewal license to an existing licensed ADHC provider who is in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

4. The department, in its sole discretion, may issue a provisional license to an existing licensed ADHC provider for a period not to exceed six months, for the following reasons:

- a. the existing ADHC provider has more than five deficient practices or deficiencies cited during any one survey;
- b. the existing ADHC provider has more than three validated complaints in one licensed year period;
- c. the existing ADHC provider has been issued a deficiency that involved placing a participant at risk for serious harm or death;
- d. the existing ADHC provider has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey;
- e. the existing ADHC provider is not in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations, and fees at the time of renewal of the license.

5. When the department issues a provisional license to an existing licensed ADHC provider, the department shall conduct an on-site follow-up survey at the ADHC center prior to the expiration of the provisional license. If that on-site follow-up survey determines that the ADHC provider has corrected the deficient practices and has maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the ADHC license.

6. If an existing licensed ADHC provider has been issued a notice of license revocation, suspension, modification, or termination, and the provider's license is due for annual renewal, the department shall issue a renewal license subject to the pending license revocation, suspension, modification, or termination, if a timely administrative appeal has been filed. The renewal of such a license does not affect in any manner the license revocation, suspension, modification or termination. The renewal of such a license does not render any such license revocation, suspension, modification, or termination moot. This type of license is valid for the pendency of the administrative appeal, provided that the renewal fees are timely paid.

B. The renewal of a license does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the provider.

C. The license for an ADHC provider shall be valid for one year from the date of issuance unless revoked, suspended, modified, or terminated prior to that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2179 (October 2008), repromulgated LR 34:2625 (December 2008).

### **§4213. Renewal of License**

A. License Renewal Application. The ADHC provider shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. The license renewal application packet shall include:

1. the license renewal application;
2. the days and hours of operation;
3. a current fire inspection report;
4. a current health inspection report;
5. the license renewal fee; and
6. any other documentation required by the department.

B. The department may perform an on-site survey and inspection upon annual renewal of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2180 (October 2008), repromulgated LR 34:2626 (December 2008).

### **§4215. Reporting Requirements**

A. The following changes, or any combination thereof, shall be reported in writing to the department within five working days of the occurrence of the change. A change in:

1. the name of the ADHC center;
2. the geographical or mailing address;
3. contact information, i.e., telephone number, fax number, email address; or
4. key administrative staff (i.e., director, program manager, social service designee, a registered nurse (RN) and/or licensed practical nurse (LPN), etc).

B. Change of Ownership (CHOW). The license of an ADHC center is not transferable to any other ADHC or individual. A license cannot be sold. When a change of ownership occurs, the ADHC provider shall notify the Health Standards Section in writing within 15 days prior to the effective date of the CHOW.

1. A signed copy of the legal document showing the transfer of ownership shall be provided to HSS.

2. Other required documents are to be submitted to HSS within five working days of the effective date of the CHOW.

3. The new owner must submit a license application identifying all new information and it must be submitted with the appropriate CHOW licensing fee.

4. An ADHC center that is under license revocation may not undergo a CHOW.

C. Any change which requires a change in the license shall be accompanied by a fee. Any request for a duplicate license shall be accompanied by a fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2180 (October 2008), repromulgated LR 34:2626 (December 2008).

### **§4217. Denial of License, Revocation of License, Denial of License Renewal**

A. The department may deny an application for a license, may deny a license renewal, or may revoke a license in accordance with the provisions of the Administrative Procedures Act.

### **B. Denial of an Initial License**

1. The department shall deny an initial license in the event that the initial licensing survey finds that the ADHC center is noncompliant with any licensing laws or regulations that are a threat to the health, safety, or welfare of the participants.

2. The department shall deny an initial license in the event that the initial licensing survey finds that the ADHC center is noncompliant with any other required statutes, laws, ordinances, rules, or regulations that are a threat to the health, safety, or welfare of the participants.

3. The department shall deny any initial license for any of the reasons designated in this §4217.D. that a license may be revoked or non-renewed.

C. Voluntary Non-Renewal of License. If a provider fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the provider.

D. Revocation of License or Denial of License Renewal. An ADHC license may be revoked or may be denied renewal for any of the following reasons including, but not limited to:

1. failure to be in substantial compliance with the ADHC licensing laws, rules, and regulations;

2. failure to be in substantial compliance with other required statutes, laws, ordinances, rules, and regulations;

3. failure to uphold participant rights whereby deficient practices may result in harm, injury, or death of a participant;

4. failure to protect a participant from a harmful act of an employee including, but not limited to:

a. abuse, neglect, exploitation, or extortion;

b. any action posing a threat to a participant's health and safety;

c. coercion;

d. threat or intimidation; or

e. harassment;

5. failure to notify the proper authorities of all suspected cases of neglect, criminal activity, mental or physical abuse, or any combination thereof;

6. knowingly making a false statement in any of the following areas including, but not limited to:

a. application for initial license or renewal of license;

b. data forms;

c. participant records;

d. matters under investigation by the department or the Office of the Attorney General;

e. information submitted for reimbursement from any payment source;

7. knowingly making a false statement or providing false, forged, or altered information or documentation to DHH employees or to law enforcement agencies;

8. the use of false, fraudulent, or misleading advertising;

9. an owner, officer, member, manager, director, or person designated to manage or supervise participant care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court;

a. for purposes of this paragraph, conviction of a felony means a felony relating to the violence, abuse, or negligence of a person, or a felony relating to the misappropriation of property belonging to another person;

10. failure to comply with all reporting requirements in a timely manner as required by the department;

11. failure to allow or refusal to allow the department to conduct an investigation or survey or to interview provider staff or participants;

12. failure to allow, or refusal to allow, access to authorized departmental personnel to records;

13. bribery, harassment, or intimidation of any participant designed to cause that participant to use the services of any particular ADHC provider; or

14. cessation of business or non-operational status.

E. In the event an ADHC license is revoked or renewal is denied, (other than for cessation of business or non-operational status) any owner, officer, member, manager, or director of such ADHC center is prohibited from owning, managing, directing, or operating another ADHC center for a period of two years from the date of the final disposition of the revocation or denial action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2180 (October 2008), repromulgated LR 34:2626 (December 2008).

#### **§4219. Notice and Appeal of License Denial, Revocation, and Non-Renewal**

A. Notice of a license denial, license revocation, or license non-renewal shall be given to the provider in writing.

B. The ADHC provider has a right to an informal reconsideration of the license denial, license revocation, or license non-renewal.

1. The ADHC provider shall request the informal reconsideration within 15 days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for informal reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section.

2. The request shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request is received by HSS, an informal reconsideration shall be scheduled and the provider will receive written notification.

4. The provider shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the denial, revocation or non-renewal, shall not be a basis for reconsideration.

6. The informal reconsideration process is not in lieu of the administrative appeals process and does not extend the time limits for filing an administrative appeal of the license denial, revocation, or non-renewal.

C. The ADHC provider has a right to an administrative appeal of the license denial, license revocation, or license non-renewal.

1. The ADHC provider shall request the administrative appeal within 30 days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for administrative appeal shall be

in writing and shall be submitted to the DHH Bureau of Appeals.

2. The request for administrative appeal shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the Bureau of Appeals, the license revocation or license non-renewal will be suspended during the pendency of the appeal. However, if the Secretary of the department determines that the violations of the center pose an imminent or immediate threat to the health, safety, or welfare of a participant, the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency of the administrative appeal. If the Secretary of the department makes such a determination, the center will receive written notification.

4. Correction of a violation or a deficiency which is the basis for the denial, revocation, or non-renewal, shall not be a basis for the administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2181 (October 2008), repromulgated LR 34:2627 (December 2008).

#### **§4221. Complaint Surveys**

A. The department shall conduct complaint surveys in accordance with R.S. 40:2009.13 et seq.

B. Complaint surveys shall be unannounced surveys.

C. A follow-up survey will be conducted for any complaint survey where deficiencies have been cited to ensure correction of the deficient practices.

D. The department may issue appropriate sanctions including, but not limited to civil monetary penalties, directed plans of correction, and license revocations for deficiencies and noncompliance with any complaint survey.

E. DHH surveyors and staff shall be given access to all areas of the facility and all relevant files during any complaint survey. DHH surveyors and staff shall be allowed to interview any provider staff and participant as required to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2182 (October 2008), repromulgated LR 34:2627 (December 2008).

#### **§4223. Statement of Deficiencies**

A. Any statement of deficiencies issued by the department to the ADHC provider shall be posted in a conspicuous place on the licensed premises.

B. Any statement of deficiencies issued by the department to the ADHC provider shall be available for disclosure to the public 30 days after the provider submits an acceptable plan of correction to the deficiencies or 90 days after the statement of deficiencies is issued to the provider, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2182 (October 2008), repromulgated LR 34:2627 (December 2008).

## **Subchapter B. Administration and Organization**

### **§4225. Governing Body**

A. The center shall have a governing body with responsibility as an authority over the policies and activities of the center.

1. The center shall have documents identifying the following information regarding the governing body:

- a. names and addresses of all members;
- b. terms of membership, if applicable;
- c. officers of the governing body, if applicable; and
- d. terms of office of all officers, if applicable.

2. When the governing body is composed of more than one person, formal meetings shall be held at least twice a year.

3. The governing body shall have by-laws specifying frequency of meetings and quorum requirements.

4. The center shall have written minutes of all formal meetings of the governing body.

5. A single person or owner may govern a privately owned and operated center. This person would assume all responsibilities of the governing body.

B. Governing Body Responsibilities. The governing body of an ADHC center shall:

1. ensure the center's compliance and conformity with the center's charter;

2. ensure the center's continual compliance and conformity with all relevant federal, state, parish and municipal laws and regulations;

3. ensure that the center is adequately funded and fiscally sound;

4. review and approve the center's annual budget;

5. ensure that the center is housed, maintained, staffed and equipped appropriately considering the nature of the program;

6. designate a person to act as the director and delegate sufficient authority to this person to manage the center and to insure that all services provided are consistent with accepted standards of practice;

7. formulate and annually review, in consultation with the director, written policies concerning the center's philosophy, goals, current services, personnel practices and fiscal management;

8. annually evaluate the director's performance;

9. have the authority to dismiss the director;

10. meet with designated representatives of DHH whenever required to do so; and

11. inform designated representatives of DHH prior to initiating any substantial changes in the program, services or physical plant of the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2182 (October 2008), repromulgated LR 34:2628 (December 2008).

### **§4227. Policy and Procedures**

A. An ADHC center shall have a written program plan describing the services and programs that it furnishes.

B. The center shall have written policies and procedures governing all areas of care and services provided by the center that are available to staff, participants, and/or sponsors. These policies and procedures shall:

1. ensure that each participant receives the necessary care and services to promote his/her highest level of functioning and well-being;

2. reflect awareness of the medical and psychosocial needs of participants as well as provisions for meeting those needs, including admission, transfer, and discharge planning; and the range of services available to participants;

3. be developed in consultation with a group of professional personnel consisting of at least a licensed physician, the director, and a registered nurse;

4. govern access, duplication and dissemination of information from the participant's personal and medical record;

5. establish guidelines to protect any money or other personal items brought to the ADHC center by participants;

6. describe the process for participants to file a grievance with the center and/or register a complaint with the department:

a. the DHH toll-free telephone number for registering complaints shall be posted conspicuously in public areas of the ADHC center;

7. be available to the participant's physician of choice;

8. be revised as necessary, but reviewed by the professional group at least annually; and

9. be approved by the governing body.

C. The director, or his designee, is responsible for the execution of ADHC center policies and he/she shall be accessible to center staff or designated representatives of DHH at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2182 (October 2008), repromulgated LR 34:2628 (December 2008).

### **§4229. Fiscal Accountability**

A. A center shall establish a system of business management and staffing to assure maintenance of complete and accurate accounts, books and records.

B. A center shall demonstrate fiscal accountability through regular recording of its finances.

C. A center shall not permit funds to be paid or committed to be paid to any entity in which any member of the governing body or administrative personnel, or members of their immediate families, have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the center.

1. The center shall provide a written disclosure of any financial transaction regarding the center in which a member of the governing body, administrative personnel, or his/her immediate family is involved.

D. The center shall ensure that all entries in records are legible, signed by the person making the entry and accompanied by the date on which the entry was made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2183 (October 2008), repromulgated LR 34:2628 (December 2008).

### §4231. Administrative Records

A. A center shall have administrative records that include:

1. documents identifying the governing body;
  - a. a list of the officers and members of the governing body, their addresses and terms of membership, if applicable;
  - b. by-laws of the governing body and minutes of formal meetings, if applicable;
2. documentation of the center's authority to operate under state law;
3. an organizational chart for the center;
4. all leases, contracts and purchase-of-service agreements to which the center is a party;
5. insurance policies;
6. annual budgets and audit reports; and
7. a master list of all other programs and services used by the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2183 (October 2008), repromulgated LR 34:2629 (December 2008).

### §4233. Participant Case Records

A. A center shall have an organized record system which includes a written case record for each participant. The case record shall contain administrative and treatment data from the time of admission until the time that the participant leaves the center.

B. The participant's case record shall include:

1. identifying information such as:
  - a. name;
  - b. birth date;
  - c. home address;
  - d. Social Security number;
  - e. marital status;
  - f. gender;
  - g. ethnic group; and
  - h. religion;
2. identifying information for the participant's personal representative, if applicable, such as:
  - a. name;
  - b. address; and
  - c. telephone number;
3. social and medical history including:
  - a. a complete record of admitting diagnoses and any treatments that the participant is receiving;
  - b. history of serious illness, serious injury or major surgery;
  - c. allergies to medication;
  - d. a list of all prescribed medications and non-prescribed drugs currently used;
  - e. current use of alcohol; and
  - f. the name of the participant's personal physician and an alternate;
4. complete health records, when available, including physical, dental and/or vision examinations;
5. a copy of the participant's individual service plan including:
  - a. any subsequent modifications; and
  - b. an appropriate summary to guide and assist direct care staff in implementing the participant's program;

6. the findings made in periodic reviews of the plan including:

- a. a summary of the successes and failures of the participant's program; and
- b. recommendations for any modifications deemed necessary;

7. a signed physician's order, issued prior to use, when restraints in any form are being used;

8. any grievances or complaints filed by the participant and the resolution or disposition of these grievances or complaints;

9. a log of the participant's attendance and absences;

10. a physician's signed and dated orders for medication, treatment, diet, and/or restorative and special medical procedures required for the safety and well-being of the participant;

11. progress notes that:

a. document the delivery of all services identified in the individualized service plan;

b. document that each staff member is carrying out the approaches identified in the individualized service plan that he/she is responsible for;

c. record the progress being made and discuss whether or not the approaches in the individualized service plan are working;

d. record any changes in the participant's medical condition, behavior or home situation which may indicate a need for a change in the individualized service plan; and

e. document the completion of incident reports, when appropriate; and

NOTE: Each individual responsible for providing direct services shall record progress notes at least weekly, but any changes to the participant's condition or normal routine should be documented on the day of the occurrence.

12. discharge planning and referral.

C. All entries made by center staff in participants' records shall be legible, signed and dated.

D. The medications and treatments administered to participants at the center must be charted by the appropriate staff.

E. The center shall ensure that participant case records are available to staff who are directly involved with participant care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2183 (October 2008), repromulgated LR 34:2629 (December 2008).

### §4235. Retention of Records

A. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of according to state laws. An ADHC center shall have sufficient space, facilities and supplies for providing effective record-keeping services.

B. All records concerning past or present medical conditions of participants are confidential and must be maintained in compliance with the provisions of the Health Insurance Portability and Accountability Act (HIPAA) of 1996. The expressed written consent of the participant must be obtained prior to the disclosure of medical information regarding the participant.

C. The participant's medical record shall consist of the active participant record and the ADHC center's storage files

or folders. As this active record becomes bulky, the outdated information shall be removed and filed in the ADHC center's storage files or folders. The active medical records shall contain the following information:

1. the necessary admission records;
2. at least six months of current pertinent information relating to the participant's active ongoing care; and
3. if the ADHC center is aware that a participant has been interdicted, a statement to this effect shall be noted on the inside front cover of the record.

D. Upon request, the ADHC center shall make all records, including participant records, available to the applicable federal and state regulatory agencies in order to determine the center's compliance with applicable federal and state laws, rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2184 (October 2008), repromulgated LR 34:2629 (December 2008).

#### **§4237. Confidentiality and Security of Records**

A. A center shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the ADHC center and as custodian, the center shall secure records against loss, tampering or unauthorized use.

B. A center shall maintain the confidentiality of all participants' case records. Employees of the center shall not disclose or knowingly permit the disclosure of any information concerning the participant or his/her family, directly or indirectly, to any unauthorized person.

C. A center shall obtain the participant's written, informed permission prior to releasing any information from which the participant or his/her family might be identified, except for authorized federal and state agencies or another program with professional interest in the participant.

D. The ADHC center shall safeguard the confidentiality of participant information and shall release confidential information only under the following conditions:

1. by court order; or
2. by the participant's written authorization, unless contraindicated as documented in the participant's record by the attending physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2184 (October 2008), repromulgated LR 34:2630 (December 2008).

#### **Subchapter C. Participant Rights**

##### **§4239. Statement of Rights**

A. Each participant shall be informed of his/her rights and responsibilities regarding the ADHC center. The regulations of the ADHC center and all rules governing participant conduct and behavior shall be fully explained to the participant. Before or upon admission, the ADHC center shall provide a copy of the participant rights document to each participant. Each participant must acknowledge receipt of this document in writing and the signed and dated

acknowledgment form shall be filed in the participant's record.

B. If the ADHC center changes its participant rights policies, each participant must acknowledge receipt of the change(s) in writing and the acknowledgment shall be filed in the participant's records.

C. The center shall have a written policy on participant civil rights. This policy shall give assurances that:

1. a participant's civil rights are not abridged or abrogated solely as a result of placement in the ADHC center's program; and

2. a participant is not denied admission, segregated into programs or otherwise subjected to discrimination on the basis of race, religion or ethnic background.

D. The participant rights document shall include at least the following items:

1. the right to be informed, in writing, of:
  - a. all services available at the ADHC center;
  - b. the charges for those services; and
  - c. the center's hours of operation;
2. the right to participate in each interdisciplinary staffing meeting and any other meeting involving the care of the participant;
3. the right to refuse any service provided in the ADHC center;
4. the right to present complaints or recommend changes regarding the center's policies and services to staff or to outside representatives without fear of restraint, interference, coercion, discrimination or reprisal;
5. the right to be free from mental or physical abuse;
6. the right to be free from active or mechanical physical restraints, except when there is imminent risk of harm to the participant or others, and only after the least restrictive methods have been attempted:
  - a. physical restraint shall be used only when ordered by the primary care physician:
    - i. the physician's order for restraint must specify the reason for using restraint and include a specific time frame for using restraint;
    - ii. the physician order shall be filed in the participant's record;
  - b. physical restraint may be used without a physician's order in an emergency only under the following conditions:
    - i. use of restraint is necessary to protect the participant from injuring himself/herself or others; and
    - ii. use of restraint is reported at once to the primary care physician;
  - c. participants who are mechanically restrained shall be monitored at least every 30 minutes to insure that circulation is not impaired and that positioning is comfortable;
  - d. participants being mechanically restrained shall be released and be provided the opportunity for exercise at least every two hours. The ADHC center staff shall document this activity each time the participant is released;
7. the right to be treated with consideration, respect and full recognition of his or her dignity and individuality;
8. the right to privacy during the provision of personal needs services;

9. the right to communicate, associate, and meet privately with individuals of his/her choice, unless this infringes on the rights of another participant; and

10. the right not to be required to perform services for the ADHC center, except when the performance of a specific service is identified in the individualized service plan as an appropriate approach to meeting a need or resolving a problem of the participant.

E. A friendly, supportive, comfortable, and safe atmosphere shall be maintained at all times, and all participants shall be treated equitably with respect, kindness, and patience.

F. Each participant shall be encouraged and assisted to exercise his/her rights as a participant at the ADHC center and as a citizen.

G. Devolution of Participant Rights. If the participant rights have devolved to the personal representative or next of kin, that party shall receive the explanation of and sign the participant rights and any other documents described in these standards. Under the following conditions, the ADHC center shall ensure that participant rights devolve to the personal representative or next of kin.

1. The participant has been interdicted in a court of law. In such cases, the ADHC center shall ensure that the participant's rights devolve to the curator/curatrix of record. The ADHC center shall obtain an official document verifying that the participant has indeed been interdicted and the interdiction must be documented on the inside front cover of the participant's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2184 (October 2008), repromulgated LR 34:2630 (December 2008).

#### **Subchapter D. ADHC Center Services**

##### **§4241. Mandatory Daily Program Components**

A. There shall be a planned daily program of both individual and group activities which is sufficiently varied and structured so as to directly involve the participants in a stimulated and meaningful use of time while at the center. Emphasis shall be given to maintaining and improving the participants' functional abilities.

B. Participants shall be encouraged to take part in the planning and directions of activities. Programming shall allow for active and passive participation.

C. Centers shall provide a detailed description of individual and group activities that are being provided to participants on a daily basis and shall make this information available upon request. This information shall also be made available to participants and their families.

D. When available, community resources may be used to provide educational programs, lectures, concerts and similarly stimulating activities to participants.

E. An arts and crafts activities program may be available to make use of the rehabilitative as well as the recreational values of such pastimes. A supply of materials adequate to accommodate all participants shall be on hand for this program.

F. An outdoor activities program, such as gardening or walking, may be maintained where space, weather, and participants' health permit.

G. A daily rest period may be incorporated into the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2185 (October 2008), repromulgated LR 34:2631 (December 2008).

##### **§4243. Core Services**

A. At a minimum, each center shall provide the following services:

1. individualized training or assistance with the activities of daily living (toileting, grooming, ambulation, etc.);

2. health and nutrition counseling;

3. an individualized, daily exercise program;

4. an individualized, goal-directed recreation program;

5. daily health education;

6. one nutritionally-balanced hot meal and two snacks served each day;

7. nursing services that include the following individualized health services:

a. monitoring vital signs appropriate to the diagnosis and medication regimen of each participant no less frequently than monthly;

b. administering medications and treatments in accordance with physician's orders;

c. initiating and developing a self administration of medication plan for the ADHC center which is individualized for each participant for whom it is indicated; and

8. transportation to and from the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2185 (October 2008), repromulgated LR 34:2631 (December 2008).

##### **§4245. Transportation Requirements**

A. The center will provide transportation to and from the ADHC center at the beginning and end of the program day. The center must comply with the following requirements governing transportation.

1. The center shall have liability insurance coverage and have proof of such coverage.

2. The center must conform to all state laws and regulations pertaining to drivers, vehicles and insurance.

B. The driver shall hold a valid chauffeur's license or commercial driver license (CDL) with passenger endorsement.

1. The driver shall meet personal and health qualifications of other staff.

C. The number of occupants allowed in a car, bus, station wagon, van, or any other type of transportation shall not exceed the number for which the vehicle is designed.

D. Provisions shall be made to accommodate participants who use assistive devices for ambulation.

E. The vehicle shall be maintained in good repair.

F. In a center-owned transportation vehicle, there shall be at least one staff member in the vehicle who is trained in first-aid and cardio pulmonary resuscitation (CPR).

G. If the center contracts with a commercial proprietor for transportation, it shall select one with a good reputation

and reliable drivers. All rules established for transportation furnished by the center shall be observed.

H. If the center develops a policy that establishes a limited mileage radius for transporting participants, that policy must be submitted to DHH for review and approval prior to the center being allowed to limit transportation for participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2186 (October 2008), repromulgated LR 34:2631 (December 2008).

### **Subchapter E. Participant Care**

#### **§4249. Medical Services**

A. Medical services shall be provided by the participant's physician of choice.

B. The center shall have a listing of available medical services for referral. When referrals are made, the center shall follow-up to see that the participant is receiving services.

C. Appropriate staff shall immediately notify the participant's physician and the legal or personal representative of any emergency, change in condition or injury to the participant that occurs at the center.

1. In areas where 911 services are not available, the center shall have means to transport participants for medical emergencies.

2. In cities or communities that have a city or community wide ambulance service (fire department or other emergency medical service), a statement in the center files regarding available emergency transportation services and the method of contact for the service will be acceptable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2186 (October 2008), repromulgated LR 34:2632 (December 2008).

#### **§4251. Nursing Services**

A. All nursing services furnished in the ADHC center shall be provided in accordance with acceptable nursing professional practice standards.

B. A registered nurse (RN) shall serve on the Interdisciplinary (ID) team and shall monitor the overall health needs of the participants. The RN serves as a liaison between the participant and medical resources, including the treating physician.

1. The RN's responsibilities include medication review for each participant at least monthly and when there is a change in the medication regime to:

- a. determine the appropriateness of the medication regime;
- b. evaluate contraindications;
- c. evaluate the need for lab monitoring;
- d. make referrals to the primary care physician for needed monitoring tests;
- e. report the efficacy of the medications prescribed; and
- f. determine if medications are properly being administered in the center.

C. The RN shall supervise the method of medication administration to participants (both self-administration and staff administration).

D. The RN shall approve the method of medication storage and record-keeping.

E. The RN or LPN shall document the receipt of all prescribed medications for each participant with a legible signature and will comply with all Louisiana laws and rules regarding medication control and disbursement.

F. The RN shall give in-service training to both staff and participants on health related matters.

G. The RN shall ensure that diagnoses are compiled into a central location in the participant's record and updated when there is a change.

H. The RN shall monitor and supervise any staff licensed practical nurse (LPN) providing care and services to participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2186 (October 2008), repromulgated LR 34:2632 (December 2008).

#### **§4253. Nutrition Services**

A. There shall be a hot, well-balanced noon meal served daily which provides one-third of the recommended dietary allowances (RDA) as established by the National Research Council and American Dietetic Association. Accommodations shall be made for participants with special diets.

1. There shall be a mid-morning snack served daily in centers where breakfast is not served.

2. There shall be a mid-afternoon snack served daily.

B. Menus shall be varied and planned and approved well in advance by a registered dietitian. Any substitutions shall be of comparable nutritional value and documented.

C. All food and drinks shall be of safe quality.

D. Drinking water shall be readily available and offered to participants.

E. Food preparation areas and utensils cleaning procedures shall comply with the State Sanitary Code.

F. A registered dietitian shall:

1. review all orders for special diets;
2. prepare menus as needed; and
3. provide in-service training to staff and, as appropriate, participants.

G. Documentation of these reviews and recommendations shall be available in the participant case record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2187 (October 2008), repromulgated LR 34:2632 (December 2008).

#### **§4255. Social Work Services**

A. All social work services shall be provided in accordance with acceptable professional social work practice standards.

B. A social service designee or social worker shall serve on the ID team and shall monitor the overall social needs of the participant.

C. Social services, as a part of an interdisciplinary spectrum of services, shall be provided to the participants to:

1. maximize the social functioning of each participant;
2. enhance the coping capacity of the participant and, as appropriate, his family;
3. assert and safeguarding the human and civil rights of participants; and
4. foster the human dignity and personal worth of each participant.

D. While the participant is receiving ADHC services, the social service designee or social worker shall, as appropriate, serve as a liaison between the participant and the center, their family and the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2187 (October 2008), LR 34:2632 (December 2008).

#### **Subchapter F. Human Resources**

##### **§4259. Personnel Policies**

A. An ADHC center shall have personnel policies that include:

1. a written plan for recruitment, screening, orientation, in-service training, staff development, supervision and performance evaluation of all staff members;
2. written job descriptions for each staff position, including volunteers;
3. a health assessment which includes, at a minimum, evidence that the employee is free of active tuberculosis and that staff are retested on a time schedule as mandated by the Office of Public Health;
4. a written employee grievance procedure;
5. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment in accordance with state law, whether the abuse or mistreatment is committed by another staff member, a family member or any other person; and
6. prevention of discrimination.

B. A center shall not discriminate in recruiting or hiring on the basis of sex, race, creed, national origin or religion.

C. A center's screening procedures shall address the prospective employee's qualifications, ability, related experience, health, character, emotional stability and social skills as related to the appropriate job description.

1. A center shall obtain written references from three persons (or prepare documentation based on telephone contacts with three persons) prior to making an offer of employment. The names of the references and a signed release must be obtained from the potential employee.

D. Annual performance evaluations shall be completed for all staff members.

1. For any person who interacts with participants, the performance evaluation procedures shall address the quality and nature of a staff member's relationships with participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2187 (October 2008), repromulgated LR 34:2633 (December 2008).

##### **§4261. Orientation and Training**

A. A center's orientation program shall provide training for new employees to acquaint them with the philosophy, organization, program, practices and goals of the center. The orientation shall also include instruction in safety and emergency procedures as well as the specific responsibilities of the employee's job.

B. A center shall document that all employees receive training on an annual basis in:

1. the principles and practices of participant care;
2. the center's administrative procedures and programmatic goals;
3. emergency and safety procedures;
4. protecting the participant's rights;
5. procedures and legal requirements concerning the reporting of abuse and neglect;
6. acceptable behavior management techniques;
7. crisis management; and
8. use of restraints (manual method, mechanical or physical devices).

C. A center shall ensure that each direct care staff completes no less than 20 hours of face-to-face training per year. Orientation and normal supervision shall not be considered for meeting this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2187 (October 2008), repromulgated LR 34:2633 (December 2008).

##### **§4263. Personnel Files**

A. An ADHC center shall have a personnel file for each employee that shall contain:

1. the application for employment and/or resume;
2. reference letters from former employer(s) and personal references or written documentation based on telephone contact with such references;
3. any required medical examinations;
4. evidence of applicable professional credentials/certifications according to state law;
5. annual performance evaluations;
6. personnel actions, other appropriate materials, reports and notes relating to the individual's employment with the center; and
7. the employee's starting and termination dates.

B. The staff member shall have reasonable access to his/her file and shall be allowed to add any written statement that he/she wishes to make to the file at any time.

C. An ADHC center shall retain an employee's personnel file for at least three years after the employee's termination of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2188 (October 2008), repromulgated LR 34:2633 (December 2008).

#### **Subchapter G. Center Responsibilities**

##### **§4265. General Provisions**

A. A center shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to ensure that the center's responsibilities are carried out and that the following functions are adequately performed:

1. administrative functions;
2. fiscal functions;
3. clerical functions;
4. housekeeping, maintenance and food service functions;
5. direct service functions;
6. supervisory functions;
7. record-keeping and reporting functions;
8. social services functions; and
9. ancillary service functions;

B. The center shall ensure that all staff members are properly certified and/or licensed as legally required.

C. The center shall ensure that an adequate number of qualified direct service staff is present with the participants as necessary to ensure the health, safety and well-being of participants.

1. Staff coverage shall be maintained giving consideration to the time of the day, the size and nature of the center and the needs of the participants.

D. The center shall not knowingly hire, or continue to employ, any person whose health, educational achievement, emotional or psychological makeup impairs his/her ability to properly protect the health and safety of the participants or is such that it would endanger the physical or psychological well-being of the participants.

1. This requirement is not to be interpreted to exclude the continued employment of persons undergoing temporary medical or emotional problems unless such problems pose a threat to the health or safety of any participant or staff.

E. If any required professional services are not furnished by center employees, the center shall have a written agreement with an appropriately qualified professional to perform the required service or written agreements with the state for required resources.

F. The center shall establish procedures to assure adequate communication among staff in order to provide continuity of services to the participant. This system of communication shall include:

1. a regular review of individual and aggregate problems of participants, including actions taken to resolve these problems;
2. sharing daily information, noting unusual circumstances and other information requiring continued action by staff; and
3. the maintenance of all accidents, personal injuries and pertinent incidents records related to implementation of the participant's individual service plans.

G. Any employee who is working directly with participant care shall have access to information from participant case records that is necessary for the effective performance of the employee's assigned tasks.

H. The center shall establish procedures which facilitate participation and feedback by staff members in policy-making, planning and program development for participants.

I. At all times, there shall be a staff member in the center who has knowledge of and can apply first aid and who is certified in CPR.

J. In the absence of the director, a staff member shall be designated to supervise the center.

K. The center shall not provide service to more participants than the number specified on its license on any given day or at any given time.

L. The center shall make available to DHH any information, which the center is required to have under these standards and is reasonably related to the assessment of compliance with these standards. The participant's rights shall not be considered abridged by this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2188 (October 2008), repromulgated LR 34:2633 (December 2008).

#### **§4267. Staffing Requirements**

A. ADHC staff shall meet the following education and experience requirements. All college degrees must be from a nationally accredited institution of higher education as defined in §102(b) of the Higher Education Act of 1965 as amended. The following staff positions are required; however, one person may occupy more than one position except for those positions that require full time status. No staff person shall occupy more than three positions at a given time.

1. Director. The director shall have a bachelor's degree in a human services-related field, such as social work, nursing, education, or psychology. Two years of responsible supervisory experience working in a human service-related field may be substituted for each year of college.

2. Social Service Designee/Social Worker. The center shall designate at least one full-time staff person to serve as the social services designee or social worker.

- a. The social services designee shall have at a minimum a bachelor's degree in a human service-related field such as psychology, sociology, education, or counseling. Two years of experience in a human service-related field may be substituted for each year of college.

- b. The social worker shall have a bachelor's or master's degree in social work.

3. Nurse. The center shall employ a full-time LPN or RN who shall be available to provide medical care and supervision services as required by all participants. The RN or LPN shall be on the premises of the center during all hours that participants are present.

- a. Nurses shall have a current Louisiana state license.

4. Program Manager. The center shall designate at least one full-time staff member who is responsible for carrying out the center's individualized program for each participant. The program manager should have program planning skills, good organization abilities, counseling and occupational therapy experience.

5. Food Service Supervisor. The center shall designate one full-time staff member who shall be responsible for meal preparation and/or serving.

6. Direct Service Worker. An unlicensed person who provides personal care or other services and support to persons with disabilities or to the elderly to enhance their well being, and who is involved in face-to-face direct contact with the participant.

7. Volunteers. Volunteers and student interns are considered a supplement to the required staffing component. A center which utilizes volunteers or student interns on a regular basis shall have a written plan for utilizing these resources. This plan must be given to all volunteers and

interns and it shall indicate that all volunteers and interns shall be:

- a. directly supervised by a paid staff member;
- b. oriented and trained in the philosophy of the center and the needs of participants as well as the methods of meeting those needs;
- c. subject to character and reference checks similar to those performed for employment applicants upon obtaining a signed release and the names of the references from the potential volunteer/intern student;
- d. aware of and briefed on any special needs or problems of participants; and
- e. provided program orientation and ongoing in-service training. The in-service training should be held at least quarterly.

B. The direct care staff to participant ratio shall be a minimum of one full-time staff member to every nine participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2188 (October 2008), repromulgated LR 34:2634 (December 2008).

#### **§4269. Incident Reports**

A. There shall be policies and procedures which cover the writing of and disposition of incident reports.

1. The center shall complete incident reports for each participant involved in the following occurrences:

- a. accidents and injuries;
- b. the involvement of any participant in any occurrence which has the potential for affecting the welfare of any other participant;
- c. any elopement or attempted elopement, or when the whereabouts of a participant is unknown for any length of time; and
- d. any suspected abuse, whether or not it occurred at the center.

B. Progress notes documented on the day of the incident shall indicate that an incident report was written.

C. The completed individual incident report shall be filed in a central record system.

D. Incident reports shall include, at a minimum, the following information:

1. the name of the participant or participants;
2. the date and time of the incident;
3. a detailed description of the incident;
4. the names of witnesses to the incident and their statements; and
5. a description of the action taken by the center with regard to the incident.

E. Incident reports must be reviewed by the director, his designee or a medical professional within 24 hours of the occurrence. A qualified professional shall recommend action, in a timely manner, as indicated by the consequences of the incident.

F. ID team members shall review all incident reports quarterly, and recommend action as indicated to:

1. insure that the reports have all of the required information;
2. identify staff training needs;
3. identify patterns which may indicate a need for changes in the center policies/practices; and

4. assist in identifying those participants who may require changes in their plans of care or who may not be appropriately placed in the ADHC center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2189 (October 2008), repromulgated LR 34:2635 (December 2008).

### **Subchapter H. Direct Service Management**

#### **§4273. Admissions**

A. A center shall have a written description of its admission policies and criteria. The admission information for individual participants shall include:

1. the participant's name, date of birth, home address and telephone number;
2. the name, address and telephone number of the participant's closest relative or friend;
3. a brief social history that includes the participant's marital status, general health status, education, former occupation, leisure-time interest and existence of supportive family members or friends;
4. the name, address and telephone number of the participant's physician and/or medical center as well as the date of participant's last physical exam;
5. a nursing assessment summary performed by the center's RN or LPN at the time of the participant's admission to the center which includes:
  - a. special dietary needs;
  - b. prescribed medication;
  - c. allergies;
  - d. any limitations on activity;
  - e. the degree to which the participant is ambulant;
  - f. visual or hearing limitations and/or other physical impairments;
  - g. apparent mental state or degree of confusion or alertness;
  - h. the ability to control bowel or bladder;
  - i. the ability to feed self;
  - j. the ability to dress self; and
  - k. the ability to self-administer medication.

NOTE: The Minimum Data Set Home Care (MDS/HC) can be used in place of the nursing assessment summary.

B. The center shall not refuse admission to any participant on the grounds of race, sex or ethnic origin.

C. The center shall not knowingly admit any participant into care whose presence would be seriously damaging to the ongoing functioning of the center or to participants already receiving services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2189 (October 2008), repromulgated LR 34:2635 (December 2008).

#### **§4275. Discharge**

A. The center shall have written policies and procedures governing voluntary discharges (the participant withdraws from the program on his/her own) and non-voluntary discharges (center initiated discharges).

1. The policy may include the procedures for non-voluntary discharges due to the health and safety of the participant or that of other participants if they would be

endangered by the further stay of a particular participant in the center.

B. There shall be a written report detailing the circumstances leading to any discharge.

C. Prior to a planned discharge, the center's ID Team shall formulate an aftercare plan specifying needed supports and the resources available to the participant.

D. When the participant is going to another home and community-based program or institutional center, discharge planning shall include the participant's needs, medication history, social data and any other information that will assist in his/her care in the new program or center.

1. A center member of the ID Team shall confer with the representatives of the new program regarding the individual needs and problems of the participant, if at all possible.

2. Upon discharge, the center shall provide a summary of the participant's health record to the person or agency responsible for the future planning and care of the participant. The discharge summary shall include:

- a. medical diagnoses;
- b. medication regimen (current physicians orders);
- c. treatment regimen (current physicians orders);
- d. functional needs (inabilities);
- e. any special equipment utilized (dentures, ambulatory aids, eye glasses, etc.);
- f. social needs;
- g. financial resources; and
- h. any other information which will enable the receiving center/caregivers to provide the continued necessary care without interruption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2190 (October 2008), repromulgated LR 34:2635 (December 2008).

#### **§4277. Interdisciplinary Team Responsibilities**

A. It shall be the responsibility of the ID team to assess and develop an individualized service plan for each participant prior to or within 20 days of admission of a participant.

B. Prior to the individual staffing of a participant by the ID team, each team member shall complete an assessment to be used at the team meeting. This assessment shall, at a minimum, include a medical evaluation and a social evaluation.

C. The ID team shall meet, reassess, and reevaluate each participant at least annually, but will meet at the end of each quarter to review the current individualized service plan and ensure that it is adequate for each participant.

D. The ID team shall make referrals, as indicated, to other disciplines and for any service which would enhance the functional capacity of a participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2190 (October 2008), repromulgated LR 34:2636 (December 2008).

#### **§4279. Interdisciplinary Team-Composition**

A. The ID team may be composed of either full-time staff members, contractual consultants or a combination of both.

B. The ID team shall be composed of:

1. a registered nurse licensed to practice in the state of Louisiana;
2. a social service designee/social worker; and
3. at least one direct care staff person from the center.

C. In addition, dietitians, physical therapists, occupational therapists, recreational therapists, physicians and others may sit on the team to staff an individual participant on an as needed basis.

D. The participant, and/or family members or legal or personal representative if appropriate, shall be involved in the ID team staffing and any other meeting involving the care needed by the participant while receiving services at the ADHC center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2190 (October 2008), repromulgated LR 34:2636 (December 2008).

#### **§4281. Individualized Service Plan**

A. The participant's ADHC individualized service plan shall:

1. be developed from the staffing performed by the ID team of each participant;
2. state the individual needs and identified problems of the participant for which intervention is indicated in assessments, progress notes and medical reports;
3. include the number of days and time of scheduled attendance required to meet the needs of the participant;
4. use the strengths of the participant to develop approaches and list these approaches with the frequency that each will be used to meet the needs of the participant;
5. identify the staff member who will be responsible for carrying out each item in the plan (the position, rather than the name of the employee, may be indicated in the plan);
6. ensure that all persons working with the participant are appropriately informed of the services required by the individualized service plan;
7. propose a reasonable time-limited goal with established priorities. The projected resolution date or review date for each problem shall be noted;
8. contain the necessary elements of the self-administration or other medication administration plan, if applicable;
9. include discharge as a goal;
10. be legible and written in terminology which all staff personnel can understand;
11. be signed and dated by all the team members; and
12. be included as a part of the participant's case record.

B. Unless it is clearly not feasible to do so, a center shall ensure that the individualized service plan and any subsequent revisions are explained to the participant and, where appropriate, the legally responsible person/personal representative or family member in language understandable to these persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2190 (October 2008), repromulgated LR 34:2636 (December 2008).

#### **§4283. Individualized Service Plan Review**

A. The individualized service plan shall be reviewed and updated at least quarterly and whenever there is a change in problems, goals or approaches as indicated.

B. This review shall be done by the person indicated on the plan as the individual primarily responsible for carrying out the plan.

C. This review shall be accomplished by reviewing the individual reports of all persons responsible for meeting the needs of the participant. These reports shall include any reports from physicians, social service designees/social workers, nurses, therapists, dietitians, and family members as well as incident reports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2191 (October 2008), repromulgated LR 34:2637 (December 2008).

### **Subchapter I. Emergency and Safety**

#### **§4285. Emergency and Safety Procedures**

A. A center shall have a written overall plan of emergency and safety procedures. The plan shall:

1. provide for the evacuation of participants to safe or sheltered areas;

2. include provisions for training staff and, as appropriate, participants in preventing, reporting and responding to fires and other emergencies;

3. provide means for an on-going safety program including continuous inspection of the center for possible hazards, continuous monitoring of safety equipment, and investigation of all accidents or emergencies; and

4. include provisions for training personnel in their emergency duties and in the use of any fire-fighting or other emergency equipment in their immediate work areas.

B. The center shall ensure the immediate accessibility of appropriate first aid supplies in kits that are to be located in the center's building and all vehicles used to transport participants.

C. A center shall have access to telephone service whenever participants are in attendance.

1. Emergency telephone numbers shall be posted for easy access, including fire department, police, medical services, poison control and ambulance.

D. A center shall immediately notify DHH and other appropriate agencies of any fire, disaster or other emergency which may present a danger to participants or require their evacuation from the center.

E. There shall be a policy and procedure that insures the notification of family members or responsible parties whenever an emergency occurs for an individual participant.

F. Upon the identification of the non-responsiveness of a participant at the center, the center's staff shall implement the emergency medical procedures and notify the participant's family members and other medical personnel.

G. A center shall conduct emergency drills at least once every three months.

H. A center shall make every effort to ensure that staff and participants recognize the nature and importance of such drills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2191 (October 2008), repromulgated LR 34:2637 (December 2008).

#### **§4287. General Safety Practices**

A. A center shall not maintain any firearms or chemical weapons where participants may have access to them.

B. A center shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers that are labeled as to the contents. Such materials shall be maintained only as necessary and shall be used in such a manner as to ensure the safety of participants, staff and visitors.

C. The center shall not have less than two remote exits.

D. Doors in means of egress shall swing in the direction of exit travel.

E. Every bathroom door lock shall be designed to permit opening of the locked door from the outside in an emergency, and the opening device shall be readily accessible to the staff.

F. Unvented or open-flame heaters shall not be utilized in center.

G. All exterior and interior doors used by participants must be at least 32 inches wide.

H. All hallways/corridors must be at least 36 inches wide.

I. At least one primary entrance shall be accessible to people with disabilities or impairments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2191 (October 2008), repromulgated LR 34:2637 (December 2008).

### **Subchapter J. Physical Environment**

#### **§4289. General Appearance and Conditions**

A. The center shall present an attractive outside and inside appearance and be designed and furnished with consideration for the special needs and interests of the population to be served as well as the activities and services to be provided.

1. Illumination levels in all areas shall be adequate and careful attention shall be given to avoiding glare.

2. The design shall facilitate the participant's movement throughout the center and involvement in activities and services.

3. Heating, cooling and ventilation system(s) shall permit comfortable conditions.

4. Sufficient furniture shall be available to facilitate usage by the entire participant population in attendance.

5. Furniture and equipment that will be used by participants shall be selected for comfort and safety as well as be appropriate for use by persons with visual and mobility limitations, and other physical disabilities.

6. Floors and steps shall have a non-slippery surface and be dry when in use by the participants. Doorways and passageways shall be kept clear to allow free and unhindered passage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2192 (October 2008), repromulgated LR 34:2637 (December 2008).

#### **§4291. Space Requirements**

A. The center shall have sufficient space and equipment to accommodate the full range of program activities and services.

B. The center shall provide at least 40 square feet of indoor space for each participant. The square footage excludes hallways, offices, restrooms, storage rooms, kitchens, etc.

C. The center shall be flexible and adaptable for large and small groups and individual activities and services.

D. There shall be sufficient office space to permit staff to work effectively and without interruption.

E. There shall be adequate storage space for program and operating supplies.

F. There shall be sufficient parking area available for the safe daily delivery and pick-up of participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2192 (October 2008), repromulgated LR 34:2638 (December 2008).

#### **§4293. ADHC Furnishings**

A. The center must be furnished so as to meet the needs of the participants. All furnishings and equipment shall be kept clean and in good repair.

B. Lounge and Recreational Areas. Adequate furniture shall be available and shall be appropriate for use by the participants in terms of comfort and safety.

C. Dining Area. Furnishings must include tables and comfortable chairs sufficient in number to serve all participants. Meals may be served either cafeteria style or directly at the table depending upon the method of food preparation or physical condition of the participants.

D. Kitchen. If the center has a kitchen area, it must meet all health and sanitation requirements and must be of sufficient size to accommodate meal preparation for the proposed number of participants.

E. Toilet Facilities. There shall be sufficient toilet and hand-washing facilities to meet the needs of both males and females. The number of toilets and hand-washing facilities shall be not less than one for each 12 participants.

1. There shall be at least two toilet facilities when males and females are served.

2. Toilets and hand-washing facilities shall be equipped so as to be accessible for people with disabilities.

F. Isolation/Treatment Room. There shall be a separate room or partitioned area for temporarily isolating a participant in case of illness. This room may be furnished with a bed or a recliner for the participant's use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2192 (October 2008), repromulgated LR 34:2638 (December 2008).

#### **§4295. Location of Center**

A. An adult day health care center that is located within any center or program that is also licensed by the department must have its own identifiable staff, space, and storage. These centers must meet specific requirements if they are located within the same physical location as another program that is also licensed by the department.

1. The program or center within which the ADHC center is located must meet the requirements of its own license.

B. New centers may not be located within 1,500 feet of another adult day health care center unless both centers are owned and managed by the same organization.

C. The location or site of an ADHC center shall be chosen so as to be conducive to the program and the participants served.

D. ADHC Centers within Nursing Centers. An adult day care center can only be located within a nursing center when the following conditions are met.

1. Space required for licensure of the nursing center cannot be utilized as space for the licensure of the adult day care center.

2. If space to be used for the ADHC center is nursing center bedroom space, the number of beds associated with the space occupied by the ADHC program must be reduced from the licensed capacity of the nursing center.

3. There must be separate staff for both programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2192 (October 2008), repromulgated LR 34:2638 (December 2008).

Alan Levine  
Secretary

0812#076

#### **RULE**

#### **Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing**

#### **Prosthetics and Orthotics Provider Accreditation (LAC 50:XVII.301, 303 and 501)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:XVII.303 and 501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### **Title 50**

#### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XVII. Prosthetics and Orthotics**

#### **Subpart 1. General Provisions**

#### **Chapter 3. Provider Participation**

#### **§301. Accreditation Requirements**

A. Effective January 1, 2009, all providers seeking Medicaid reimbursement for prostheses, orthoses, prosthetic

services and orthotic services must be accredited by the American Board of Certification in Orthotics, Prosthetics and Pedorthics, or by the Board of Certification/Accreditation, International.

1. These accreditation provisions shall not apply to a licensed optometrist or a licensed ophthalmologist, and shall not prohibit a licensed occupational therapist or a licensed physical therapist from practicing within his scope of practice.

B. For the purposes of this Section, orthosis shall not include prefabricated or direct-formed orthotic devices or any of the following assistive technology devices commonly carried in stock by a pharmacy, department store, corset shop, or surgical supply facility:

1. commercially available knee orthoses (used following sports injury or surgery);
2. upper extremity adaptive equipment;
3. wrist gauntlets;
4. finger and hand splints;
5. low-temperature formed plastic splints;
6. trusses;
7. elastic hose;
8. fabric or elastic supports;
9. corsets;
10. face masks used following burns;
11. canes and crutches;
12. wheelchair seating that is an integral part of the wheelchair and not worn by the patient independent of the wheelchair;
13. cervical collars; and
14. dental appliances.

C. For the purposes of this Section, prosthesis shall not include:

1. artificial eyes;
2. artificial ears;
3. artificial noses;
4. dental appliances;
5. ostomy products; and
6. eyelashes and wigs.

D. A provider who is not accredited and provides prosthetic/orthotic services or devices to a recipient and accepts Medicaid reimbursement shall be fined \$2,500 per violation and shall be required to reimburse the Medicaid Program for the cost of the service(s) or device(s).

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:85 (January 2005), repromulgated LR 31:1597 (July 2005), amended LR 34:2638 (December 2008).

### **§303. Provider Responsibilities**

A. Providers may not deliver more than one month's approval of supplies initially and all subsequently approved supplies must be delivered in increments not to exceed one month's rations.

B. The recipient must be Medicaid eligible on the date of service for payment to be made. The date of service is the date of delivery.

C. The date of shipping will be considered the date of service for all items delivered through mail courier service.

D. Providers who make or sell prosthetic or orthotic items must provide a warranty which lasts at least 90 days,

from the time the item is delivered to the customer. If, during those 90 days, the item does not work, the manufacturer or dealer must repair or replace the item.

E. For any appliance which requires skill and knowledge to use, the item provider must provide appropriate training for the recipient and must provide documentation of plans for training upon the request of the prior authorization unit.

AUTHORITY NOTE: Promulgated in accordance with R. S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2639 (December 2008).

## **Chapter 5. Reimbursement**

### **§501. Reimbursement Methodology**

A. - B. ...

C. Effective January 1, 2009, reimbursements for prosthetic or orthotic services or devices shall only be paid to an accredited provider.

AUTHORITY NOTE: Promulgated in accordance with R. S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1597 (July 2005), amended LR 34:881 (May 2008), amended LR 34:2639 (December 2008).

Alan Levine  
Secretary

0812#079

## **RULE**

### **Department of Natural Resources Office of Conservation**

Application to Drill (LAC 43:XIX.103)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and Title 30 of the Louisiana Revised Statutes of 1950 (R.S. 30:4 et seq.), the Louisiana Office of Conservation hereby amends LAC 43:XIX Subpart 1 (Statewide Order No. 29-B) Chapter 1 (General Provisions).

## **Title 43**

### **NATURAL RESOURCES**

#### **Part XIX. Office of Conservation—General Operations Subpart 1. Statewide Order No. 29-B**

##### **Chapter 1. General Provisions**

### **§103. Application to Drill**

A. All applications for permits to drill wells for oil or gas or core test wells below the fresh water sands shall be made on Form MD-10-R or revisions thereof, and mailed or delivered to the district office. These applications, in duplicate, shall be accompanied by three copies of the location plat, preferably drawn to a scale of 1000 feet to the inch. The plats shall be constructed from data compiled by a registered civil engineer or surveyor and shall definitely show the amount and location of the acreage with reference to quarter-section corners, or other established survey points. There shall also be shown all pertinent lease and property lines, leases, offset wells, and the location and distance from the well to the nearest shoulder of any Interstate highway within the boundaries of the plat. When the tract to be drilled is composed of separately-owned interests which have been pooled or unitized, the boundaries to the acreage in each

separately-owned interest must be indicated. Plats must have well locations certifications either written on or attached to the well location plats and this certification must be signed by a registered civil engineer, qualified surveyor or a qualified engineer regularly employed by the applicant. If possible the application card shall give the name and address of the drilling contractor, otherwise the information, as soon as determined, shall be supplied by letter to the district manager.

1. Applicants that receive a drilling permit for a well located within 1,000 feet of an Interstate highway shall furnish a copy of the approved drilling permit and the certified location plat to the appropriate state and local authorities, including all emergency responders.

B. When dual completion applications are granted, each well shall be considered as two wells. The production from each sand shall be run through separate lead lines and the production from each sand shall be measurable separately. The department's agent shall designate suitable suffixes to the well number which will serve as reference to each producing sand.

C. No well shall be drilled, nor shall the drilling of a well be commenced, before a permit for such well has been issued by the Office of Conservation; furthermore, any work, such as digging pits, erecting buildings, derricks, etc., which the operator may do or have done, will be done at his own risk and with the full understanding that the Office of Conservation may find it necessary to change the location or deny the permit because of the rules and regulations applying in that instance.

D. No well shall commence drilling below the surface casing until a sign has been posted on the derrick, and subsequently on the well if it is a producer, showing the operator of record of the well, name of lease, section, township, range, and the serial number under which the permit was issued. The obligation to maintain a legible sign remains until abandonment.

E. In order to make the designation of the well, as referred to above, more uniform throughout the state, and thus to facilitate the handling of all matters relative to any particular well, the following system of rules has been developed for use in the naming of wells in the future in Louisiana.

1. In no case shall any operator name or well name exceed 30 characters. A space is equivalent to one character.

a. Abbreviations shall be used whenever possible to comply with the above. It is recommended that "S" be used for sand and "U" for unit.

b. The official well name appearing on Form MD-10-R (Application to Drill) shall be used when reporting on all Office of Conservation forms and also in any correspondence.

2. Lease Wells. All wells drilled on a lease basis shall bear the lessor's surname and initials or given name.

Example:	Lease Name	Well Number
	J. R. Smith	Number 2

3. The commissioner shall prescribe or cause to have prescribed the procedure for assigning well and/or nomenclature and shall issue a memorandum concerning same from time to time as the need arises.

a. Developmental units proposed at a hearing shall be named in accordance with the latest memorandum, and

the well number shall depend on whether or not there are any other wells in existence on the lease.

b. Any unit maps filed with an application for hearing must reflect proposed unit names in accordance with the latest memorandum.

4. Units with Alternate Unit Wells. For those cases where more than one well serves the same proration unit, the wells shall be named in accordance with the latest memorandum, and the well number shall be followed by the letters ALT in the case of each alternate well.

Example:	Lease Name	Well Number
	Hayes Sue; J. R. Smith	Number 1
	Hayes Sue; Dave Luke	Number 1 ALT
	Hayes Sue; St. Mary	Number 22 ALT

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (August 1958), (August 1961), (May 1973), amended by the Department of Natural Resources, Office of Conservation, LR 34:2639 (December 2008).

James H. Welsh  
Commissioner

0812#020

**RULE**

**Department of Natural Resources  
Office of Conservation**

**Diverter Systems and Blowout Preventers (BOP)  
(LAC 43:XIX.111)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and Title 30 of the Louisiana Revised Statutes of 1950 (R.S. 30:4 et seq.), the Louisiana Office of Conservation hereby amends LAC 43:XIX Subpart 1 (Statewide Order No. 29-B) Chapter 1 (General Provisions).

**Title 43**

**NATURAL RESOURCES**

**Part XIX. Office of Conservation—General Operations**

**Subpart 1. Statewide Order No. 29-B**

**Chapter 1. General Provisions**

**§111. Diverter Systems and Blowout Preventers (BOP)**

A. Diverter System. A diverter system shall be required when drilling surface hole in areas where drilling hazards are known or anticipated to exist. The district manager may, at his discretion, require the use of a diverter system on any well. In cases where it is required, a diverter system consisting of a diverter sealing element, diverter lines, and control systems must be designed, installed, used, maintained, and tested to ensure proper diversion of gases, water, drilling fluids, and other materials away from facilities and personnel. The diverter system shall be designed to incorporate the following elements and characteristics:

1. dual diverter lines arranged to provide for maximum diversion capability;

2. at least two diverter control stations. One station shall be on the drilling floor. The other station shall be in a readily accessible location away from the drilling floor;

3. remote-controlled valves in the diverter lines. All valves in the diverter system shall be full-opening.

Installation of manual or butterfly valves in any part of the diverter system is prohibited;

4. minimize the number of turns in the diverter lines, maximize the radius of curvature of turns, and minimize or eliminate all right angles and sharp turns;

5. anchor and support systems to prevent whipping and vibration;

6. rigid piping for diverter lines. The use of flexible hoses with integral end couplings in lieu of rigid piping for diverter lines shall be approved by the district manager.

#### B. Diverter Testing Requirements

1. When the diverter system is installed, the diverter components including the sealing element, diverter valves, control systems, stations and vent lines shall be function and pressure tested.

2. For drilling operations with a surface wellhead configuration, the system shall be function tested at least once every 24-hour period after the initial test.

3. After nipping-up on conductor casing, the diverter sealing element and diverter valves are to be pressure tested to a minimum of 200 psig. Subsequent pressure tests are to be conducted within seven days after the previous test.

4. Function tests and pressure tests shall be alternated between control stations.

#### 5. Recordkeeping Requirements

a. Pressure and function tests are to be recorded in the driller's report and certified (signed and dated) by the operator's representative.

b. The control station used during a function or pressure test is to be recorded in the driller's report.

c. Problems or irregularities during the tests are to be recorded along with actions taken to remedy same in the driller's report.

d. All reports pertaining to diverter function and/or pressure tests are to be retained for inspection at the wellsite for the duration of drilling operations.

C. BOP Systems. The operator shall specify and insure that contractors design, install, use, maintain and test the BOP system to ensure well control during drilling, workover and all other appropriate operations. The surface BOP stack shall be installed before drilling below surface casing. The BOP stack shall consist of the appropriate number of ram-type preventers necessary to control the well under all potential conditions that might occur during the operations being conducted. The pipe rams shall be of proper size(s) to fit the drill pipe in use. The use of annular-type preventers in conjunction with ram-type preventers is encouraged.

1. The requirements of LAC 43:XIX.111.C-I shall not be applicable for wells drilled to or completed in the Nacatoch Formation in the Caddo Pine Island field.

2. The commissioner of conservation, following a public hearing, may grant exceptions to the requirements of LAC 43:XIX.111.C-I.

D. BOP Working Pressure. The working pressure rating of any BOP component, excluding annular-type preventers, shall exceed the maximum anticipated surface pressure (MASP) to which it may be subjected.

E. BOP Auxiliary Equipment. All BOP systems shall be equipped and provided with the following:

1. A hydraulically actuated accumulator system which shall provide 1.5 times volume of fluid capacity to close and hold closed all BOP components, with a minimum pressure

of 200 psig above the pre-charge pressure without assistance from a charging system.

2. A backup to the primary accumulator-charging system, supplied by a power source independent from the power source to the primary, which shall be sufficient to close all BOP components and hold them closed.

3. Accumulator regulators supplied by rig air without a secondary source of pneumatic supply shall be equipped with manual overrides or other devices to ensure capability of hydraulic operation if the rig air is lost.

4. At least one operable remote BOP control station in addition to the one on the drilling floor. This control station shall be in a readily accessible location away from the drilling floor. If a BOP control station does not perform properly, operations shall be suspended until that station is operable.

5. A drilling spool with side outlets, if side outlets are not provided in the body of the BOP stack, to provide for separate kill and choke lines.

6. Choke and kill lines each equipped with two full-opening valves. At least one of the valves on the choke line and the kill line shall be remotely controlled. In lieu of remotely controlled valves, two readily-accessible manual valves may be installed provided that a check valve is placed between the manual valves and the pump.

7. A valve installed below the swivel (upper kelly cock), essentially full-opening, and a similar valve installed at the bottom of the kelly (lower kelly cock). A wrench to fit each valve shall be stored in a location readily accessible to the drilling crew.

8. An essentially full-opening drill-string safety valve in the open position on the rig floor shall be available at all times while drilling operations are being conducted. This valve shall be maintained on the rig floor to fit all connections that are in the drill string. A wrench to fit the drill-string safety valve shall be stored in a location readily accessible to the drilling crew.

9. A safety valve shall be available on the rig floor assembled with the proper connection to fit the casing string being run in the hole.

10. Locking devices installed on the ram-type preventers.

#### F. BOP Maintenance and Testing Requirements

1. The BOP system shall be visually inspected on a daily basis.

2. Pressure tests (low and high pressure) of the BOP system are to be conducted at the following times and intervals:

a. during a shop test prior to transport of the BOPs to the drilling location. Shop tests are not required for equipment that is transported directly from one well location to another;

b. immediately following installation of the BOPs;

c. within 14 days of the previous BOP pressure test.

Exceptions may be granted by the district manager in cases where a trip is scheduled to occur within 2 days after the 14-day testing deadline;

d. before drilling out each string of casing or liner (The district manager may require that a conservation enforcement specialist witness the test prior to drilling out each casing string or liner);

e. Not more than 48 hours before a well is drilled to a depth that is within 1000 feet of a hydrogen sulfide zone (The district manager may require that a conservation enforcement specialist witness the test prior to drilling to a depth that is within 1000 feet of a hydrogen sulfide zone);

f. when the BOP tests are postponed due to well control problem(s), the BOP test is to be performed on the first trip out of the hole, and reasons for postponing the testing are to be recorded in the driller's report.

3. Low pressure tests (200-300 psig) of the BOP system (choke manifold, kelly valves, drill-string safety valves, etc.) are to be performed at the times and intervals specified in LAC 43:XIX.111.F.2. in accordance with the following provisions.

a. Test pressures are to be held for a minimum of five minutes.

b. Variable bore pipe rams are to be tested against the largest and smallest sizes of pipe in use, excluding drill collars and bottom hole assembly.

c. Bonnet seals are to be tested before running the casing when casing rams are installed in the BOP stack.

4. High pressure tests of the BOP system are to be performed at the times and intervals specified in LAC 43:XIX.111.F.2 in accordance with the following provisions.

a. Test pressures are to be held for a minimum of five minutes.

b. Ram-type BOP's, choke manifolds, and associated equipment are to be tested to the rated working pressure of the equipment or 500 psi greater than the calculated MASP for the applicable section of the hole.

c. Annular-type BOPs are to be tested to 70% of the rated working pressure of the equipment.

5. The annular and ram-type BOPs with the exception of the blind-shear rams are to be function tested every seven days between pressure tests. All BOP test records should be certified (signed and dated) by the operator's representative.

a. Blind-shear rams are to be tested at all casing points and at an interval not to exceed 30 days.

G. BOP Record Keeping. The time, date and results of pressure tests, function tests, and inspections of the BOP system are to be recorded in the driller's report and are to be retained for inspection at the wellsite for the duration of drilling operations.

H. BOP Well Control Drills. Weekly well control drills with each drilling crew are to be conducted during a period of activity that minimizes the risk to drilling operations. The drills must cover a range of drilling operations, including drilling with a diverter (if applicable), on-bottom drilling, and tripping. Each drill must be recorded in the driller's report and is to include the time required to close the BOP system, as well as, the total time to complete the entire drill.

I. Well Control Safety Training. In order to ensure that all drilling personnel understand and can properly perform their duties prior to drilling wells which are subject to the jurisdiction of the Office of Conservation, the operator shall require that contract drilling companies provide and/or implement the following:

1. periodic training for drilling contractor employees which ensures that employees maintain an understanding of, and competency in, well control practices;

2. procedures to verify adequate retention of the knowledge and skills that the contract drilling employees need to perform their assigned well control duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended by the Department of Natural Resources, Office of Conservation, LR 34:2640 (December 2008).

James H. Welsh  
Commissioner

0812#021

## RULE

### Department of Public Safety and Corrections Corrections Services

#### Prison Enterprises—Responsibilities and Functions (LAC 22:I.1101)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Corrections Services, hereby amends the contents of Section 1101, Responsibilities and Functions of Prison Enterprises.

The purpose of the amendment to the aforementioned regulation is to clarify and further establish and outline the functions and responsibilities of the Division of Prison Enterprises.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part I. Corrections

#### Chapter 11. Prison Enterprises

#### §1101. Responsibilities and Functions

A. Purpose—to clarify and further establish and outline the functions and responsibilities of the Division of Prison Enterprises.

B. Applicability—deputy secretary, chief of operations, undersecretary, assistant secretary, regional wardens, wardens, Director of Prison Enterprises and Director of Probation and Parole. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

#### C. Policy

1. It is the secretary's policy that the Division of Prison Enterprises is responsible for developing and implementing policy and procedures for agricultural, aquacultural, silvicultural and marketing programs, industrial enterprises, livestock operations and service industries that will utilize the department's resources to lower the cost of incarceration. Additionally, Prison Enterprises shall provide training and work opportunities for offenders in order to enhance the department's reentry initiatives, and provide products and services to state and local agencies, other political subdivisions, open market customers and other targeted customers.

#### D. Definitions

*Advertising*—the use of Prison Enterprises' resources to call to the attention of existing or potential customers the

products or services offered by Prison Enterprises through media sources, including but not limited to print, television, radio, signage, sponsorships, tradeshow and other electronic media.

*Agricultural*—of or relating to cultivation of soil, production of crops, raising of livestock and management of natural resources.

*Aquacultural*—of or relating to cultivation of natural produce of water such as fish and shellfish and their by-products.

*Crop Commodities*—food and fiber products that cover a broad range of goods from both processed and unprocessed bulk commodities. This includes but is not limited to soybeans, corn, wheat, rice, cotton, vegetables, grasses and their by-products.

*Governmental Agencies*—including but not limited to foreign, federal, state and local governmental bodies as well as non-profit organizations, both within and outside the state of Louisiana.

\* \* \*

*Marketing*—the process or technique of promoting, selling and distributing a product or service. This includes but is not limited to restricted marketing to a targeted buyer or group of buyers.

*Meat and Food Products*—including but not limited to all processed and/or unprocessed bulk beef, poultry, pork, seafood and other food products used for production or resale.

\* \* \*

*Opportunity Purchases*—single bids for non-contract items specifically requested by a customer or recommended by Prison Enterprises.

*Private Treaty*—a sale of property on terms determined by conference of the seller and buyer.

*Promotional Items*—items having no substantial resale value including but not limited to calendars, pens, hats, and t-shirts bearing information relative to Prison Enterprises.

*Public Employee*—person employed at any level in any capacity by a governmental agency in any branch of government, including a retiree.

*Row Crop Contracts*—contracts with grain elevators or others based on the Chicago Board of Trade commodity future prices.

*Samples*—any Prison Enterprises' products or services provided to a potential or existing customer or placed in a highly visible location or otherwise utilized to further enhance sales to existing or potential customers. This includes but is not limited to items provided to governmental agencies or organizations affiliated with potential customers to use at their discretion.

*Service Industry*—any labor-intensive endeavor that utilizes inmate labor or Prison Enterprises' resources to accommodate customer requests. This includes but is not limited to janitorial work, bulk mailings and assembly.

*Silvicultural*—of or relating to controlling the establishment, growth, composition, health and quality of forests and woodlands and their by-products through management, harvest and planting.

*Timber*—includes all natural and planned growth of trees used for building and other purposes, and all by-products of trees including but not limited to pine straw, firewood and bark.

#### E. General

1. The director of Prison Enterprises shall be responsible for the following:

a. Establishment and operation of all agricultural, aquacultural, silvicultural and marketing programs, industrial enterprises, livestock operations and service industries, including the Private Sector/Prison Industry Enhancement (PS/PIE) program within the Department of Public Safety and Corrections.

E.1.b - E.1.d. ...

2. Prison enterprises may purchase without bid both finished and unfinished goods and processed and unprocessed raw materials from other governmental agencies for further processing or sale. Purchases of this type shall only be made to accommodate or take advantage of delivery terms, consistency in product quality/specifications, manufacturing capabilities and price.

3. ...

4. Functional supervision at the field level relative to interface with unit activities and security requirements shall be under the jurisdiction of the warden in accordance with ACA Standard 4-4006.

#### F. Marketing and Promotion

1. Prison Enterprises can market and promote activities or incur expenses to promote its products and services to existing or potential customers. Marketing and promotional activities include but are not limited to providing samples and promotional items, participating in advertising, and attending conferences and/or conventions.

#### G. Sales

##### 1. General

a. All Prison Enterprises products, commodities, livestock, and services may be sold through appropriate venues including but not limited to direct sales to governmental agencies, non-profit entities, private entities, public employees, and other targeted customers, as well as open market sales, sealed bids, auctions and sales of bulk-purchased items via central warehousing operations in accordance with R.S. 15:1157(C).

b. Sales to governmental agencies shall be priced based on response to bid requests, direct sales of Prison Enterprises contract products and by direct negotiation between Prison Enterprises and the governmental agency.

c. Prison Enterprises can sell manufactured, processed, agricultural and other commodity products to a full-time, part-time or retired public employee who resides within the state of Louisiana provided that the employee certifies that the product shall not be resold or transferred outside the state. Pricing shall be determined based on current Prison Enterprises contract prices or established Prison Enterprises pricing methodology.

d. Prison Enterprises shall not sell any product or service for the purposes of promoting political candidates or any other political activity.

##### 2. Sale of Bulk Meat and Food

a. Meat and food products offered for sale by Prison Enterprises and their corresponding prices shall be listed on the state contract published by the Office of State Purchasing. Prices will be updated at intervals as deemed necessary by Prison Enterprises.

b. Opportunity purchases shall be bid as necessary and sold at a price determined by Prison Enterprises.

c. Pricing for meat and food products shall be based on purchase price, market conditions and sales history. The director of Prison Enterprises or his designee shall approve all prices.

### 3. Sale of Timber

a. The Louisiana State University (LSU) School of Forestry or a professional timber consultant shall be retained to formulate a multi-year timber management plan. If a professional timber consultant is hired, he shall be a member of a professional timber management association and must provide sufficient references. The timber management plan submitted shall include best management practices for all woodlands located on property controlled by the department. The timber management plan shall be presented to the agriculture manager who shall make recommendations for harvest and sale of timber to the director of Prison Enterprises or his designee.

b. Large quantities of timber shall be sold on the open market by bid in accordance with recommendations made by either the LSU School of Forestry or the professional timber consultant. Smaller quantities of timber (i.e. damaged trees cut for salvage) and timber by-products shall be sold on the open market at current market rates or by private treaty at the recommendation of the LSU School of Forestry or the professional timber consultant to the agriculture manager. All sales of timber require the approval of the director of Prison Enterprises or his designee.

### 4. Sale of Services

a. Prison Enterprises' management and the potential customer shall negotiate terms of agreement to include pricing and a detailed description of services to be rendered. Prison Enterprises may also respond to bid requests by governmental agencies and other entities to provide services.

### 5. Sale of Cattle

#### a. Approvals

i. The agriculture manager shall provide information regarding the cattle to be sold to include such items as type of cattle, quantity, estimated weight, location, etc. to the director or his designee.

ii. This information shall then be utilized to grant approval prior to the sale or advertisement.

#### b. Direct Sales

i. Prison Enterprises can sell cattle by private treaty with the approval of the director of Prison Enterprises or his designee. This method of sale shall be used if it is the agriculture manager's determination that it is financially or operationally advantageous to use this method. The director's approval shall be based on criteria such as current market data, current needs of Prison Enterprises and other circumstances.

ii. The agriculture manager shall review market data to determine the reasonableness of the price offered by the potential buyer. The agriculture manager, upon consultation with the Director of Prison Enterprises or his designee, shall agree to a price that is determined to be fair considering all circumstances listed above.

#### c. Advertised Bids

i. Advertisements for bids when selling cattle shall be published for at least one day in the state journal and in at least one printing of the official journal of the parish the livestock is located in. A copy of the bid package shall also be sent to a list of persons/companies comprised of previous

bidders and known major cattle buyers that purchase cattle in the southern United States. A copy of the bid package shall also be provided to the LSU Agricultural Center Beef Specialist for informational purposes and for distribution to the LSU Cooperative Extension office of each parish.

ii. Photographs of livestock shall be provided to prospective bidders upon requests made to the agriculture manager at the phone number listed in the advertisement. Livestock shall be available for viewing by prospective bidders during the advertisement period by contacting the agriculture manager at the phone number listed in the advertisement.

iii. Vendors shall be allowed to submit bids until the bid opening date and time specified in the bid opening package. The bid package shall specify the latest date and time that bids will be accepted either by fax, mail or hand delivery.

iv. The agriculture manager shall review market data regularly during the bid period to determine highs and lows in prices and shall use this information to determine the reasonableness of bids received. The agriculture manager, upon consultation with the Director of Prison Enterprises or his designee, shall notify the department's procurement director of his decision to award or cancel the bid.

v. The successful vendor shall pick up livestock on or before the date stated in the bid. Livestock shall be sorted and penned in accordance with provisions of the bid. The successful vendor is responsible for all necessary transportation equipment and other expenses related to the pickup, unless otherwise stated in the bid. Prison Enterprises shall make necessary accommodations for the pick up unless extraordinary circumstances (severe weather, security events, etc.) prohibit pick up on the stated date.

#### d. Auctions

i. Cattle sold at auction, whether stockyards or video auctions, are exempt from the above procedures.

### 6. Sale of Other Livestock

#### a. Horses for Law Enforcement

i. Horses bred and raised for law enforcement purposes shall be sold to local, state and out of state governmental agencies, or non-profit organizations affiliated with law enforcement without bid at a price agreed upon by Prison Enterprises and the customer.

#### b. Other Livestock

i. All other livestock including but not limited to non-law enforcement horses, swine, birds, fish and crawfish shall be sold at established market price or through other customary means, or by private treaty, bid or auction by adhering to the procedures listed above for cattle.

### 7. Sale of Crop Commodities

a. Pursuant to the sale of grain products, the agriculture manager and sales coordinator shall routinely research available market information and follow the futures prices of grains at the Chicago Board of Trade. The sales coordinator, at the direction of the agriculture manager and with the approval of the Director of Prison Enterprises or his designee, shall obtain price quotes from local grain elevators and enter into row crop contracts that are at prices determined to be advantageous to Prison Enterprises and are consistent with anticipated production levels. Contracts for the sale of grain shall be for one of the following:

i. cash price;

ii. basis only with futures price to be called for at a later date; or

iii. futures only with basis determined before delivery.

b. Pursuant to the sale of cotton, Prison Enterprises shall bid a contract to gin the harvested cotton. According to the specifications of the contract, the ginner shall submit a report to the agriculture manager that shall specify yield and quality. Prison Enterprises shall use the information from the ginner to either sell the cotton by bid or by private treaty.

c. The sale of grasses for hay and other crop by-products shall be made by bid or by private treaty. Bidding shall be accomplished by obtaining, at a minimum, telephone quotes from at least three bona fide bidders. The bid shall be awarded to the highest responsible bidder. Private treaty prices shall be set by the agriculture manager at or near current market prices for each particular product. Type, quality, location, responsibility for transportation, etc. of hay and other crop by-products shall factor into the pricing. All sales of this type shall require the approval of the Director of Prison Enterprises or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1156.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary, LR 33:855 (May 2007), amended LR 34:2642 (December 2008).

James M. Le Blanc  
Secretary

0812#022

## RULE

### Department of Public Safety and Corrections Gaming Control Board

#### Gaming

(LAC 42:VII.1701, 2108, 2116, 2524, 2701, 2707, 2709, 2711, 2715, 2723, 2730, 2731, 2735, 2901, 2953, 2954, 3301, 3302, 4201, 4204, 4205, 4206, 4209, 4211, 4214, 4220;

IX.1907, 2165, 2166, 2167, 2169, 2524, 2701, 2707, 2709, 2711, 2715, 2717, 2721, 2723, 2730, 2731, 2735, 2901, 2907, 2922, 2923, 3301, 3302, 4204, 4205, 4206, 4209, 4211, 4214, 4220, 4301, 4303, 4305, 4313, 4321, 4325;  
XIII.1701, 2108, 2116, 2524, 2701, 2707, 2709, 2711, 2715, 2717, 2721, 2723, 2730, 2731, 2735, 2901, 2937, 2953, 2954, 3301, 3302, 4003, 4009, 4201, 4204, 4205, 4206, 4209, 4211, 4214, 4301, 4303, 4305, 4313, 4315, 4321, and 4325)

The Louisiana Gaming Control Board hereby has amended LAC 42:VII.1701, 2108, 2116, 2524, 2701, 2707, 2709, 2711, 2715, 2723, 2730, 2731, 2735, 2901, 2953, 2954, 3301, 3302, 4201, 4204, 4205, 4206, 4209, 4211, 4214, 4220, IX.1907, 2165, 2166, 2167, 2169, 2524, 2701, 2707, 2709, 2711, 2715, 2717, 2721, 2723, 2730, 2731, 2735, 2901, 2907, 2922, 2923, 3301, 3302, 4204, 4205, 4206, 4209, 4211, 4214, 4220, 4301, 4303, 4305, 4313, 4321, 4325, XIII.1701, 2108, 2116, 2524, 2701, 2707, 2709, 2711, 2715, 2717, 2721, 2723, 2730, 2731, 2735, 2901, 2937, 2953, 2954, 3301, 3302, 4003, 4009, 4201, 4204,

4205, 4206, 4209, 4211, 4214, 4301, 4303, 4305, 4313, 4315, 4321, and 4325.

## Title 42

### LOUISIANA GAMING

#### Part VII. Pari-Mutuel Live Racing Facility Slot Machine Gaming

##### Chapter 17. General Provisions

###### §1701. Definitions

A. As used in the regulations, the following terms have the meanings described below.

\* \* \*

*Drop*—the total amount of money and cash equivalents removed from the drop box and the bill validator acceptor drop box, or for cashless slot machines, the amounts deducted from a player's slot account as a result of slot machine play.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:728 (April 2000), amended LR 29:362 (March 2003), LR 34:2645 (December 2008).

##### Chapter 21. Licenses and Permits

###### §2108. Nongaming Suppliers

A. Any nongaming supplier, regardless of whether having been permitted or not and regardless of the dollar amount of goods or services provided to a licensee may be requested to apply to the division for a finding of suitability.

B. Unless otherwise notified by the division in writing, a Type A licensee shall conduct business with a non-gaming supplier only if:

1. such supplier possesses a valid nongaming permit which has been placed in an approved status by the division; or

2. such supplier has been issued a waiver from the division regarding the necessity of obtaining a permit, pursuant to the provisions of Subsections E or F of this Section.

3. Repealed.

C. It shall be the responsibility of each Type A licensee to ensure that it has not paid more than the amount provided in R.S. 27:29.3 to any non-gaming supplier during any calendar year period as payment for providing non-gaming services or goods, unless such non-gaming supplier holds a valid non-gaming suppliers permit which has been placed in an approved status by the division or has been issued a waiver regarding the necessity of obtaining such a permit from the division pursuant to Subsections D or E of this Section.

D. The following nongaming suppliers shall be deemed to have been waived by the board and division from the necessity of obtaining a nongaming suppliers permit pursuant to this Section:

1. nonprofit charitable organizations, and educational institutions which receive funds from the licensee, including educational institutions that receive tuition reimbursement on behalf of employees of a licensee:

a. nonprofit charitable organization shall mean a nonprofit board, association, corporation, or other organization domiciled in this state and qualified with the United States Internal Revenue Service for an exemption

from federal income tax under Section 501(c)(3), (4), (5), (6), (7), (8), (10), or (19) of the Internal Revenue Code;

2. entities which provide one or more of the following services to a licensee and which are the sole source provider of such service:

- a. water;
- b. sewage;
- c. electricity;
- d. natural gas; and
- e. local telephone services;

3. regulated insurance companies providing insurance to a licensee and its employees including providers of medical, life, dental, and property insurance;

4. administrators of employee benefit and retirement plans including incorporated 401K plans and employee stock purchase programs;

5. national or local professional associations which receive funds from a licensee for the cost of enrollment, activities, and membership;

6. all state, federal and municipal operated agencies;

7. all liquor, beer and wine industries regulated by the Office of Alcohol and Tobacco Control;

8. state and federally regulated banks and savings and loan associations;

9. newspapers, television stations and radio stations which contract with licensees to provide advertising services; and

10. providers of professional services, including but not limited to accountants, architects, attorneys, consultants, engineers and lobbyists, when acting in their respective professional capacities;

11. hotels and restaurants;

12. nationwide shipping services, including Federal Express, United Parcel Service, Airborne Express and Emory Freight;

13. publicly traded companies or wholly owned subsidiaries of publicly traded companies subject to regulation by the Securities and Exchange Commission, who are in good standing and are current with filings.

E. Any nongaming supplier required to obtain a nongaming suppliers permit, other than those listed in Subsection E in this Section may request a waiver of the necessity of obtaining a nongaming suppliers permit. The division may grant such a request upon showing of good cause by the nongaming supplier. The division may rescind any such waiver which has been previously granted upon written notice to the nongaming supplier.

F. Junket representatives shall be subject to the provisions of this Section in the same manner as other nongaming suppliers.

G. Each Type A licensee shall submit to the division, on a quarterly basis, a report containing a list of all non-gaming suppliers that have received \$10,000 or more from the Type A licensee during the previous quarter, or an amount equal to or greater than the amount provided in R.S 27:29:3 during the preceding calendar year as payment for providing non-gaming services or goods to the Type A licensee. This report shall include the name and address of the supplier, a description of the type of goods or services provided, the supplier's non-gaming supplier permit number, if applicable, federal tax identification number, and the total amount of all payments made by the Type A licensee, or any person acting

on behalf of the licensee, to each supplier. For each suppliers listed in this quarterly report which is a provider of professional services as defined in Paragraph E.10-13 of this Section, each licensee shall also submit a brief statement describing the nature and scope of the professional service rendered by each such provider, the number of hours of work performed by each such provider, and the total amount paid to each such provider by the licensee or any person acting on behalf of the licensee during the previous quarter. This report shall be received by the division not later than the last day of the month following the quarter being reported.

H. The division shall determine whether nongaming suppliers providing goods and/or services to licensees are legitimate ongoing businesses and are not utilized for the primary purpose of compliance with voluntary procurement goals. In making such determination the division shall consider any or all of the following nonexclusive factors:

1. years in business providing specific goods and/or services procured by licensees;

2. total customer base;

3. dollar volume of all sales compared to sales to licensees;

4. existence and nature of warehouse and storage facilities;

5. existence and number of commercial vehicles owned or leased; and/or

6. existence and nature of business offices, equipment and facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:733 (April 2000), amended LR 34: 2645 (December 2008).

#### **§2116. Cash Transaction Reporting**

A. Each Type A licensee shall report any administrative or criminal proceedings against it alleging a violation pertaining to a cash transaction report, as defined by the Internal Revenue Service, to the division within 10 days of knowledge by the Type A licensee of the violation.

B. Any violation of a cash transaction reporting requirement by a Type A licensee or its affiliates in any other jurisdiction shall be reported to the division within 30 days of the notice of violation in the other jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 34: 2646 (December 2008).

#### **Chapter 25. Transfers of Interest in Licensees and Permittees; Loans and Restrictions**

##### **§2524. Publicly Registered Debt and Securities**

A. ...

1. file with the division within 15 days after filing with the SEC, copies of all registration statements and all final prospectus with respect to such debt securities and will give notice to the division within 15 days of the effectiveness of such registration statement; and

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:744 (April 2000), amended LR 34:2646 (December 2008).

## Chapter 27. Accounting Regulations

### §2701. Procedure for Reporting and Paying Taxes and Fees

A. All Gaming Revenue Summary reports, together with all necessary subsidiary schedules, shall be submitted to the division no later than 48 hours from the end of the licensed eligible facility's specified gaming day in a manner specified by the division.

1. For reporting purposes, licensed eligible facility's specified gaming day (beginning time to ending time) shall be submitted in writing to the division prior to implementation.

2. For licensed eligible facilities which offer 24 hour gaming, gaming day is the 24 hour period by which the entity keeps its books and records for business, accounting, and tax purposes.

3. Each licensed eligible facility shall have only one gaming day, common to all its departments. Any change to the gaming day shall be submitted to the division 10 days prior to implementation of the change.

B. All taxes related thereto must be electronically transferred to the state's or district's designated bank account as directed by the division. In addition to any other administrative action, civil penalties, or criminal penalties, licensed eligible facilities who are late in electronically transferring these taxes may retroactively be assessed late penalties of 15 percent of the amount due per annum after notice and opportunity for a hearing held in accordance with the Administrative Procedure Act. Interest may be imposed on the late payment of taxes at the daily rate of 0.00041 multiplied by the amount of unpaid taxes for each day the payment is late.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:745 (April 2000), amended LR 34:0000 (December 2008).

### §2707. Record Retention

A. ...

B. Each Type A licensee shall conduct a complete system backup to an off-site location a minimum of once a month. For purposes of this rule, the off-site storage facility is specified in the Type A licensee's internal controls. A complete system backup includes, but is not limited to:

1. all automated slot data information;
2. all automated table game information;
3. all automated cage and credit information; and
4. all automated revenue reports.

C. A Type A licensee must have a written contingency plan in the event of a system failure or other event resulting in the loss of system data. The plan shall address backup and recovery procedures and shall be sufficiently detailed to ensure the timely restoration of data in order to resume operations after a hardware or software failure or other event that results in the loss of data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:746 (April 2000), amended LR 34:2647 (December 2008).

### §2709. Standard Financial Statements

A. - B. ...

C. Each licensed eligible facility shall submit to the division one copy of any report, including but not limited to Forms S-1, 8-K, 10-Q, and 10-K, required to be filed by the licensed eligible facility with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency, within 15 days of the time of filing with such commission or agency or the due date prescribed by such commission or regulatory agency, whichever comes first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:746 (April 2000), amended LR 34:2647 (December 2008).

### §2711. Audited Financial Statements

A. - C. ...

D. Each licensed eligible facility shall engage an independent Certified Public Accountant (CPA) licensed by the Louisiana State Board of Certified Public Accountants. The CPA shall examine the statements in accordance with generally accepted auditing standards. The licensed eligible facility may select the independent CPA with the division's approval. The independent CPA is prohibited from providing internal audit services. Should the independent CPA previously engaged as the principal accountant to audit the licensed eligible facility's financial statements resign or be dismissed as the principal accountant, or if another CPA is engaged as principal accountant, the licensed eligible facility shall file a report with the division within 10 days following the end of the month in which the event occurs, setting forth the following:

D. - F. ...

G. If a licensed eligible facility changes its fiscal year, the licensed eligible facility shall prepare and submit to the division audited financial statements covering the period from the end of the previous business year to the beginning of the new business year not later than 120 days after the end of the period.

H. The division may request additional information and documents from either the licensed eligible facility or the licensed eligible facility's independent CPA, through the licensed eligible facility, regarding the financial statements or the services performed by the accountant. The division may review any and all workpapers of the independent CPA at a time and place determined by the division. This requirement shall be included in agreements between the licensed eligible facility or its affiliates and the independent CPA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:746 (April 2000), amended LR 34:2647 (December 2008).

### §2715. Internal Control; General

A. - A.8.e. ...

f. no sensitive key shall be removed from the Premises unless prior approval has been granted by the division. For purposes of this rule, Premises is specified in the Type A licensee's internal controls;

g. for approved electronically monitored key systems, the required number of witnesses shall be specified in the Type A licensee's internal controls.

9. - 11. ...

12. the Type A licensee shall notify the division within 2 hours of discovery that a sensitive key may have been lost or removed from the Premises;

13. all access to the count rooms and the vault is documented on a log maintained by the count team and vault personnel respectively. Such logs shall be kept in the count rooms and vault room respectively, such logs shall be available at all times, and such logs shall contain entries with the following information:

- a. name of each person entering the room;
- b. reason each person entered the room;
- c. date and time each person enters and exits the room;
- d. date, time and type of any equipment malfunction in the room;
- e. a description of any unusual events occurring in the room; and
- f. such other information required in the licensed eligible facility's internal controls as approved by the division;

14. only transparent trash bags are utilized in restricted areas.

B. - C. ...

D. A separate internal audit department (whose primary function is performing internal audit work and who is independent with respect to the departments subject to audit) shall be maintained by either the licensed eligible facility, the parent company of the licensed eligible facility, or be contracted to an independent CPA firm. The internal audit department or independent CPA firm shall develop quarterly reports providing details of all exceptions found and subsequent action taken by management. Each Type A Licensee shall submit 2 copies of the internal audit report to the division as directed, within 60 days subsequent to the end of the previous quarter. All material exceptions resulting from internal audit work shall be investigated and resolved. The results of the investigation shall be documented and retained within the state of Louisiana for five years.

E. - L.3. ...

M. A licensed eligible facility shall be liable as an insurer for all collection activities on the debt of a patron whether such activities occur in the name of the owner or a third party.

N. The licensed eligible facility shall have a continuing duty to review its internal controls to ensure the internal controls remain in compliance with the Act and these rules.

O. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:748 (April 2000), amended LR 26:2305 (October 2000), LR 34:2647 (December 2008).

### §2723. Internal Controls; Slots

A. Any reference to slot machines or slots in this Section includes all electronic gaming devices. Provisions within this Section only applicable to requirements for use of coins and tokens shall not apply to coinless or tokenless devices.

B. - C.3. ...

4. the number of credits played;

C.5. - D.1.c. ...

d. the number of credits played;

e. - h. ...

i. signature of a slot attendant and an additional permitted gaming employee verifying and witnessing the payout if the jackpot is less than \$1200; signature of one slot attendant and security officer verifying and witnessing the payout if the jackpot is \$1200 or greater; and with the exceptions of overrides, signature of one permitted gaming employee verifying and witnessing the payout if the jackpot is under an approved amount specified in the licensee's internal controls.

2. A request for jackpot payout form may be used for "quick-pay" or "pouch-pay" if the following conditions are met:

- a. the slot attendant and verifier sign the request;
- b. the cage cashier verifies the required signatures on the request;
- c. the cage cashier verifies the information and the information matches the request on the jackpot payout form;
- d. the cage cashier and slot attendant sign the jackpot payout form; and
- e. the cage cashier attaches the request to the jackpot payout form.

3. - 5. ...

6. Jackpot overrides shall have the notation "override" printed on all copies, and shall be approved by a supervisor. Jackpot override reports shall be run on a daily basis.

7. Jackpot payout slips shall be used in sequential order.

E. - G. ...

H. If the jackpot is \$100,000 or more, the licensed eligible facility shall notify the division immediately. Surveillance shall constantly monitor the electronic gaming device until payment of the jackpot has been completed or until otherwise directed by a division agent. A slot technician shall remove the electronic board housing the program storage media. The slot technician shall inspect and test in a manner prescribed by the division. Surveillance shall monitor the entire process of inspecting and testing. The payout form shall be signed by a casino shift manager or other designated employee as specified in the licensee's internal controls. The device shall not be placed back into service until all requirements of this Subsection are met.

I. - K.2.e. ...

3. The slot count process shall be monitored in its entirety and videotaped by surveillance including transportation to the count room or other secured area as approved by the division. At least one surveillance or internal audit employee shall monitor the count process at least two randomly selected days per calendar month. Surveillance shall record on the surveillance log the times that the count process begins and ends, as well as any exceptions or variations to established procedures observed during the count, including each time the count room door is opened. If surveillance observes the visibility of the count team's hands or other activity is continuously obstructed at any time, surveillance shall immediately notify the count room employees.

4. Prior to each count, the count team shall perform a test of the weigh scale. The results shall be recorded and

signed by at least two count team members. The initial weigh/count shall be performed by a minimum of three employees, who shall be rotated on a routine basis. The rotation shall be such that the count team does not consist of only the same three employees more than four days per week.

K.5. - L.4. ...

5. Prior to each count, at least two employees shall verify the accuracy of the weigh scale with varying weights or, with varying amounts of previously counted coin for each denomination to, ensure the scale is properly calibrated.

L.6. - Q.1. ...

2. The currency acceptor drop box shall be removed by an employee independent of the slot department according to a schedule, submitted to the division, setting forth the specific times for such drops. Each Type A licensee shall notify the division at least five days prior to implementing a change to this schedule, except in emergency situations. Emergency drops, including those for maintenance and repairs which require removal of the currency acceptor drop box, require written notification to the division within 24 hours detailing date, time, machine number and reason. Prior to emptying or removing any currency acceptor drop box, the drop team shall notify security and surveillance that the drop is beginning.

3. - 9. ...

10. The currency acceptor count shall be performed in the soft count room. At least one surveillance or internal audit employee shall monitor the currency acceptor count process at least two randomly selected days per calendar month and shall be videotaped by surveillance. Surveillance shall record on the surveillance log any exceptions or variations to established procedures observed during the count. If at any time surveillance observes the visibility of count team's hands or other activity is consistently obstructed, surveillance shall immediately notify count room employees.

11. ...

12. Currency acceptor count team members shall be rotated on a routine basis. Rotation shall be such that the count team does not consist of only the same three employees more than four days per week.

Q.13. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:751 (April 2000) amended LR 26:2305 (October 2000), LR 31:1603 (July 2005), LR 34:2648 (December 2008).

### **§2730. Exchange of Tokens**

A. ...

B. The change shall occur at any casino cage.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:761 (April 2000), amended LR 34:2649 (December 2008).

### **§2731. Currency Transaction Reporting**

A. - D. ...

E. For each required Currency Transaction Report or Suspicious Activity Report, a clear surveillance photograph of the patron shall be taken and attached to the licensed

eligible facility's copy of the Currency Transaction Report or Suspicious Activity Report. If a clear photograph cannot be taken at the time of the transaction, a file photograph of the patron if available may be used to supplement the required photograph taken. The licensed eligible facility shall maintain and make available for inspection all copies of Currency Transaction Report or Suspicious Activity Reports, with the attached photographs, for a period of five years.

F. One legible copy of all Currency Transaction Report for casinos filed with the Internal Revenue Service shall be forwarded to the division by the fifteenth day after the date of the transaction in a manner determined by the division.

G. One legible copy of all Suspicious Activity Reports for Casinos, filed with the Internal Revenue Service by a Type A Licensee shall be forwarded to the division in a manner determined by the division, in accordance with Federal deadlines.

H. The licensed eligible facility shall be responsible for maintaining a single log which aggregates all transactions in excess of \$3,000 from the various multiple transaction logs as follows.

1. All cash transactions in excess of \$3,000 shall be recorded on a multiple transaction log for aggregation of the multiple transactions and signed by the employee handling the transaction. Records of the aforementioned transactions must be aggregated on the single log required by this Section.

2. Any multiple transaction log which reflects no activity shall be signed by the supervisor.

3. The employee handling the transaction shall be responsible for accurate and complete log entries. No log entry shall be omitted. Each log entry shall include the date and time, the amount of the transaction, the location of the transaction, the type of transaction, and the name or physical description of the patron.

4. Once any patron's cash activity has exceeded \$3,000, any and all additional cash activity shall be logged regardless of the amount or location.

5. Personnel of the cage shall ensure all cash transactions in excess of \$3,000 are properly logged and aggregated.

6. Personnel of the cage shall ensure any required currency transaction reports are properly completed.

7. As the \$10,000 amount is about to be exceeded, the employee consummating the transaction shall be responsible for obtaining and verifying the patron's identification prior to completing the transaction.

8. All multiple transaction logs shall be turned in to the cage for submittal to the accounting department daily.

I. The information required to be gathered by this Section shall be obtained from the individual on whose behalf the transaction is conducted, if other than the patron.

J. If a patron is unable or unwilling to provide any of the information required for currency transaction reporting, the transaction shall be terminated until such time that the required information is provided.

K. A transaction shall not be completed if it is known that the patron is seeking to avoid compliance with currency transaction requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:761 (April 2000), amended LR 34:2649 (December 2008).

### **§2735. Net Slot Machine Proceeds Computation**

A. For each slot machine, net slot machine proceeds shall equal drops less fills to the machine and jackpot payouts, plus or minus the token float adjustment. The first step in the calculation of the token float adjustment shall be the daily token float calculation which shall be the total tokens received to date (i.e., the initial tokens received from vendors plus all subsequent shipments of tokens received) less the total day's token count (i.e., tokens in the hard count room plus tokens in the vault, cage drawers, change lockers, tokens in other locations and initial tokens in hoppers). The daily ending inventory token count shall at no time exceed the total amount of tokens in the total licensed eligible facility token accountability. Foreign tokens and slugs do not constitute a part of token inventory. If at any time the calculated daily token float is less than zero, the licensed eligible facility shall adjust to reflect a zero current day token float. The initial hopper load is not a fill and does not affect gross revenue.

B. ...

C. All gaming tournaments conducted by or on behalf of the licensed eligible facility require prior written approval by the division, and are subject to the following requirements.

1. All entry fees, buy-ins, re-buys, and similar payments, paid by or on behalf of tournament participants, shall be included in net slot machine proceeds. No cost incurred by the Type A licensee associated with holding the tournament shall be deducted from the entry fees before calculating net slot machine proceeds. For purposes of calculating net slot machine proceeds, cash prizes awarded in the tournament may be deducted as payouts up to the amount received from or on behalf of tournament participants. No other deductions shall be made for purposes of calculating net slot machine proceeds. If cash prizes awarded exceed revenues received from or on behalf of tournament participants, the licensee may not deduct the excess and declare a loss against net slot machine proceeds.

2. All amounts paid directly or indirectly, by or on behalf of a person playing in a tournament and cash prizes shall be reported on a gaming revenue summary in a manner approved by the division. Copies of source documents such as transfer slips of the participant's entry fees to either the vault or cage and transfer slips of participant's winnings paid out from either the cage or the vault must accompany the gaming revenue summary on which the entry fee or payout is reported.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:762 (April 2000), amended LR 34:2650 (December 2008).

## **Chapter 29. Operating Standards**

### **§2901. Code of Conduct of Licensees and Permittees**

A. - A.3. ...

4. All required notifications to the division shall be in writing.

B. - B.5. ...

C. Additional Causes for Disciplinary Action

1. - 1.j. ...

k. failure to obtain approval from the division prior to changing, adding, or altering the casino configuration. For the purpose of this Section, altering the casino configuration does not include the routine movement of EGDs for cleaning and/or maintenance purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:763 (April 2000), amended LR 27:58 (January 2001), LR 29:2505 (November 2003), amended LR 34:2650 (December 2008).

### **§2953. Promotions**

A. - B. ...

C. Promotional programs, including contests or tournaments, which impair the integrity of the games, the security, surveillance and well being of persons on the Type A licensee's property or the calculation of gaming revenue are prohibited. Issuance of coupons, scrip, and other cash equivalents used in conjunction with a promotion that does not impact the calculation of gaming revenues, shall be considered a promotional expense of the Type A licensee. Type A licensees who intend to offer coupons, scrip, and cash equivalents as part of a promotion shall adopt internal controls, prior to the implementation of any such programs, governing the use and accountability of the coupon, scrip, or cash equivalent, as prescribed by the division.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:768 (April 2000), amended LR 27:1555 (September 2001), LR 30:90 (January 2004), amended LR 34:2650 (December 2008).

### **§2954. Tournaments**

A. - A.3. ...

4. Licensed eligible facilities must maintain tournament documentation for five years.

5. Licensed eligible facilities shall report tournaments on the gaming revenue summary in accordance with §2735.

A.6. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:1556 (September 2001), amended LR 34:2650 (December 2008).

## **Chapter 33. Surveillance and Security**

### **§3301. Required Surveillance Equipment**

A. - A.1.e. ...

f. such other areas as designated by the division;

A.2. - A.11. ...

12. at all times during the conduct of gaming, the Type A licensee shall have as a reserve, at a minimum, six back-up cameras and appropriate recording equipment as approved by the division in the event of failure;

13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:770 (April 2000), amended LR 34:2650 (December 2008).

### **§3302. Digital Video Recording Standards**

In addition to the requirement of §3301, the use of digital recording equipment may be authorized if the following requirements are met.

A. As used herein, a *digital video recording (DVR)* shall mean: visual images of the natural world converted into numbers and stored on tape, digital video disk, or other storage medium, for later reproduction.

B. All DVR equipment and systems used by a Type A licensee in its surveillance system shall:

1. record and play activity in all gaming areas where cash is handled including but not limited to cages, vaults, count rooms, table games, and the drop process, at a minimum of 30 frames per second and in real time; and in all other gaming areas, a minimum number of frames per second as specified in the Type A license's internal controls as approved by the division;

2. record, review and download simultaneously without an interruption of the recorded feature;

3. have visual image resolution of a minimum of 4CIF (common intermediate format) and must be of sufficient clarity to meet division requirements;

4. maintain all images obtained from the video cameras for a period of not less than seven days, or additional period as specified by the division;

5. have a failure notification system that provides an audible and a visual notification of any failure in the surveillance system or the DVR media storage system;

6. have a media storage system that is configured so that a failure of any single component will not result in the loss of any data from the media storage system; and

7. be connected to an uninterruptible power source to ensure the safe shutdown of the system in the event of a power loss, and must reboot in the record mode.

C. For areas where gaming is conducted, cameras not specifically addressed by the surveillance standards must provide minimum frames per second as specified by the division.

D. Any part of the Type A licensee's surveillance system that uses a DVR, may not use quads and/or multi-view devices to record activity in gaming related areas. In areas where the use of quads and/or multi-view devices are authorized, no more than four cameras may be recorded on one device.

E. If the Type A licensee uses a network for the digital recording equipment, it must be a closed network with limited access. The Type A licensee must seek authorization from the division prior to implementation. The Type A licensee must provide written policies on the administration of the network, including employee access levels, which set forth the location and to whom access is being provided, other than surveillance personnel and key employees, and certifies that the transmission is encrypted, fire walled on both ends and password protected.

F. If the Type A licensee requests to allow remote access to its network by the provider, written procedures must be submitted to the division for approval. The remote access must be encrypted, fire walled on both ends and password protected. A written report must be generated weekly indicating the person given access, date, beginning and ending time, and reason for access. This report must be reviewed at each end of the system to ensure that there has not been any unauthorized access. The reviewer must initial and date this report.

G. All digital video disks or other storage media produced from the DVR system must have a visual resolution of 640 x 480 pixels or greater unless the division determines that an alternate visual resolution can achieve the clarity required to meet the purposes of this Section; and must contain the data with the time and date it was recorded superimposed, the media player that has the software necessary to view the DVR images and a video verification encryption code (also know as a watermark).

H. The Type A licensee must provide the division with the necessary software/hardware, as specified by the division, to review a downloaded recording and the video verification encryption code (watermark), at no cost to the division, before the division's inspection and approval of the DVR system. A watermark will be required to authenticate dates/times and validity of live and archived data.

I. The Type A licensee is responsible for training permitted surveillance employees in the use of the digital system and downloading recordings for evidentiary purposes.

J. Surveillance room equipment must have override capability over all surveillance equipment located outside the surveillance room, except for the division's surveillance room.

K. The division's surveillance room must be equipped as specified by the division and fully functional with total override capabilities.

L. Any failure of a DVR storage media system, resulting in loss of data or picture, shall be immediately reported to the division, and shall be repaired or replaced within 8 hours of the failure.

M. All DVR equipment must be located in the surveillance room of the Type A licensee, or other areas as approved by the division, and the Surveillance Department shall be ultimately responsible for its proper operation and maintenance.

N. A Type A licensee shall obtain prior authorization from the division if any portion of their surveillance system is changed from an analog to a DVR format, setting forth what the change will be, when the change will occur, and how the change will affect their surveillance system as a whole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 34:2650 (December 2008).

#### **Chapter 42. Racetracks: Electronic Gaming Devices §4201. Division's Central Computer System (DCCS)**

A. - C.1. ...

2. any device malfunction that causes any meter information to be altered, cleared, or otherwise inaccurate may require immediate disablement of the electronic gaming device from patron play by the division. The Type A licensee shall report the malfunction to the division within 4 hours after the occurrence;

C.3. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:773 (April 2000), amended LR 34:2651 (December 2008).

#### **§4204. Progressive Electronic Gaming Devices**

A. - C.5. ...

##### **D. Transferring of Progressive Jackpot Which Is in Play**

1. All transfers of progressive jackpots require prior written authorization from the division.

2. A progressive jackpot which is currently in play may be transferred to another progressive EGD on the licensed eligible facility in the event of:

- a. EGD malfunction;
- b. EGD replacement;
- c. the licensee distributes the incremental amount to another progressive jackpot at the licensee's establishments and:

- i. the licensee documents the distribution;
- ii. any machine offering the jackpot to which the licensee distributes the incremental amount does not require that more money be played on a single play to win the jackpot, than the machine from which the incremental amount is distributed;

- iii. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.A.2; and

- iv. the distribution is completed within 30 days after the progressive jackpot is removed from play or within such longer period as the division may for good cause approve, or

- v. the division approves a reduction, elimination, distribution, or procedure not otherwise described in this Subsection, which approval is confirmed in writing;

- vi. licensees shall preserve the records required by this section for at least five years; or

- d. other good reason deemed appropriate by the division or board to ensure compliance with this Chapter.

3. All progressive jackpot transfers shall be prominently posted at or near the applicable EGD at least 14 days in advance of the requested transfer date.

4. If the events set forth above do not occur, the progressive award shall be permitted to remain until it is won by a player or transfer is approved by the division.

E. - K.3. ...

##### **L. Progressive Controller**

1. A progressive controller entry authorization log shall be maintained within each controller. The log shall be on a form prescribed by the division and completed by each individual who gains entrance to the controller. These logs shall be retained for a minimum of 5 years.

L.2. - N.3. ...

4. the licensee distributes the incremental amount to another progressive jackpot at the licensee's establishment and:

- a. obtains prior written authorization from the division;

- b. the licensee documents the distribution;

- c. any machine offering the jackpot to which the licensee distributes the incremental amount does not require that more money be played on a single play to win the jackpot, than the machine from which the incremental amount is distributed;

- d. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.A.2; and

- e. the distribution is completed within 30 days after the progressive jackpot is removed from play or within such longer period as the division may for good cause approve; or

- f. the division approves a reduction, elimination, distribution, or procedure not otherwise described in this Subsection, which approval is confirmed in writing;

- g. all progressive jackpot transfers shall be prominently posted at or near the applicable EGD at least 14 days in advance of the requested transfer date.

N.5. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:775 (April 2000), amended LR 31:1604 (July 2005), LR 34:2652 (December 2008).

#### **§4205. Computer Monitoring Requirements of Electronic Gaming Devices**

A. - B. ...

1. record the number and total value of cash equivalents placed in the EGD for the purpose of activating play;

2. record the total value of credits received from the currency acceptor for the purposes of activating play;

3. record the number and total value of cash equivalents deposited in the drop bucket of the EGD;

4. record the number and total value of cash equivalents automatically paid by the EGD as the result of a jackpot;

5. record the number and total value of cash equivalents to be paid manually as the result of a jackpot. The system shall be capable of logging in this data if such data is not directly provided by EGD;

6. have an on-line computer alert, alarm monitoring capability to insure direct scrutiny of conditions detected and reported by the EGD, including any device malfunction, any type of tampering, and any open door to the drop area. In addition, any person opening the EGD or the drop area shall complete the machine entry authorization log including time, date, machine identity and reason for entry with exclusion of the drop team. These machine entry authorization logs shall be retained for a minimum of 5 years;

B.7. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:777 (April 2000), amended LR 34:2652 (December 2008).

#### **§4206. Employment of Individual to Respond to Inquires from the Division**

A. Each manufacturer shall employ or retain an individual who understands the design and function of each of its EGD's who shall respond within the time specified by the division to any inquires concerning the EGD or any modifications to the device. Each manufacturer shall on or before December 31 of each year report in writing the name of the individual designated pursuant to this Section and shall report in writing any change in the designation within 15 days of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:778 (April 2000), amended LR 34:2652 (December 2008).

**§4209. Approval of New Electronic Gaming Devices**

- A. - A.2.dd.i.(f). ...
  - ii. The bill validators may be for single denomination or combination of denominations.
  - iii. Bill validators may accept other items as approved by the division.
- ee. - kk. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:778 (April 2000), amended LR 29:2506 (November 2003), LR 31:1602 (July 2005), LR 31:1604 (July 2005), amended LR 34:2653 (December 2008).

**§4211. Duplication of Program Storage Media**

- A. - A.4. ...
- B. Required Documentation
  - 1. Each Licensee shall maintain a program storage media duplication log which shall contain:
    - 1.a. - 3. ...
- C. Program Storage Media Labeling
  - 1. Each duplicated program storage media shall have an attached adhesive label containing the following:
    - C.1.a. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:784 (April 2000), amended LR 34:2653 (December 2008).

**§4214. Maintenance of Electronic Gaming Devices**

A. A licensee shall not alter the operation of an approved EGD except as provided in these rules and shall maintain the EGDs as required by this Chapter. Each licensee shall keep a written list of repairs made to the EGD offered for play to the public that require a replacement of parts that affect the game outcome, and any other maintenance activity on the EGD, and shall make the list available for inspection by the division upon request. The written list of repairs shall be logged in the machine M.E.A.L. book which shall be kept in the EGD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:785 (April 2000), amended LR 31:1604 (July 2005), amended LR 34:2653 (December 2008).

**§4220. Record Retention**

A. Machine Entry Authorization Logs, Progressive Controller Entry Authorization Logs, and Program Storage Media duplication logs, required by this Chapter, or an electronic facsimile thereof, shall be maintained and accessible to the division for five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 34:2653 (December 2008).

**Part IX. Landbased Casino Gaming**  
**Subpart 1. Economic Development and Gaming Corporation**

**Chapter 19. General Provisions**

**§1907. Definitions, Words and Terms, Captions, Gender References**

- A. ...
  - \*\*\*

*Chip*—a non-metal or partly metal representation of value, redeemable for cash, and issued or sold by the Casino Operator for use at the Casino.

\*\*\*

*Drop*—

- a. for table Games, the total amount of money, and cash equivalents contained in the Drop boxes;
- b. for Slot Machines, the total amount of money and cash equivalents removed from the *Drop* box, bill validator acceptor, or for cashless Slot Machines, the amounts deducted from a player's slot account as a result of Slot Machine play.

\*\*\*

*Sensitive Keys*—all keys, including originals and duplicates, used in the process of accessing cash, chips, tokens, die, and cards. Sensitive keys also include, but are not limited to, drop box release and content keys, gaming device cabinet keys except slot machine access keys, and all keys used to access secure areas. Sensitive keys also include any keys so designated in the licensee's internal controls as approved by the division.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1901 (October 1999), amended LR 34:2653 (December 2008).

**Chapter 21. Applications; Suitability, Permitting and Licensing**

**§2165. Permit Requirements for Persons Furnishing Services or Property or Doing Business with the Casino Operator or Casino Manager**

A. All Manufacturers of Slot Machines, Gaming Devices or other Gaming Equipment, the companies or Persons supplying or repairing Slot Machines, Gaming Devices or other Gaming Equipment, companies providing or repairing Casino Security services must be permitted, in accordance with these Regulations, prior to conducting any business with the Casino Operator, Casino Manager or their employees or Agents.

B. The method of applying for a Permit is as set forth in this Chapter of the rules and Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1914 (October 1999), amended LR 34:2653 (December 2008).

**§2166. Exemptions/Waivers from Non-Gaming Vendor Permit Requirements**

A. The following Persons are exempt from the permitting requirements of §2165 and these Regulations:

1. - 12. ...

13. publicly traded companies or wholly owned subsidiaries of publicly traded companies subject to regulation by the Securities and Exchange Commission, who are in good standing and are current with filings.

B. - D. ...

E. It shall be the responsibility of the Casino Operator or Casino Manager to ensure that it has not paid more than the amount provided by in R.S. 27:29.3 to any nongaming supplier during any calendar year period as payment for providing nongaming services or goods, unless such nongaming supplier holds a valid nongaming supplier permit which has been placed in an approved status by the division or has been issued a waiver regarding the necessity of obtaining such a permit from the division pursuant to §2166.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1915 (October 1999), amended LR 34:2653 (December 2008).

#### **§2167. Junket Representative Permit**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1915 (October 1999), repealed LR 34:2654 (December 2008).

#### **§2169. Conditional Junket Representative Permit**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1916 (October 1999), repealed LR 34:2654 (December 2008).

### **Chapter 25. Transfers of Interest in the Casino**

#### **Operator and Permittees; Loans and Restrictions**

#### **§2524. Publicly Registered Debt and Securities**

A. ...

1. file with the division within 15 days after filing with the Securities and Exchange Commission, copies of all registration statements and final prospectus with respect to such debt securities and will give notice to the division within 15 days of the effectiveness of such registration statement; and

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1923 (October 1999), amended LR 34:2654 (December 2008).

### **Chapter 27. Accounting Regulations**

#### **§2701. Procedure for Reporting and Paying Gaming**

##### **Revenues and Fees**

A. All Gaming Revenue Summary reports, together with all necessary Subsidiary schedules, required under the Act shall be submitted to the division no later than 48 hours from the end of the Casino Operator or Casino Manager's specified gaming day in a manner specified by the division.

1. For reporting purposes, Casino Operator or Casino Manager's specified gaming day (beginning time to ending time) shall be submitted in writing to the division prior to implementation.

2. The gaming day is the 24-hour period by which the Casino keeps its Books and Records for business, accounting, and tax purposes.

3. The Casino Operator or Casino Manager shall have only one gaming day, common to all its departments. Any change to the gaming day shall be submitted and approved by the division 10 Days prior to implementation of the change.

B. Consistent with Section 6.5 of the Casino Operating Contract, all Louisiana Gross Gaming Revenue share payments must be electronically transferred to the state's designated bank account by 5 p.m. of the next business day following the close of that Casino Gaming Day. Interest shall be imposed on the late payment of fees at the Default Interest Rate as defined by the Casino Operating Contract. In addition to any other administrative action, civil penalties, or criminal penalties allowed by law, Casino Operators or Casino Managers who are late in electronically transferring these payments may retroactively be assessed late penalties after Notice and opportunity for a hearing held in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1924 (October 1999), amended LR 34:2654 (December 2008).

#### **§2707. Record Retention**

A. ...

B. The Casino Operator or Casino Manager shall conduct complete system backups to an off-site location a minimum of once a month. For purposes of this rule, the off-site storage facility is specified in the Casino Operator or Casino Manager's internal controls. A complete system backup includes, but is not limited to:

1. all automated slot data information;
2. all automated table game information;
3. all automated cage and credit information; and
4. all automated revenue reports.

C. The Casino Operator or Casino Manager must have written contingency plan in the event of a system failure or other event resulting in the loss of system data. The plan shall address backup and recovery procedures and shall be sufficiently detailed to ensure the timely restoration of data in order to resume operations after a hardware or software failure or other event that results in the loss of data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1925 (October 1999), amended LR 34:2654 (December 2008).

#### **§2709. Standard Financial Statements**

A. ...

B. The Casino Operator or Casino Manager shall furnish to the division on a form, as prescribed by the division, a quarterly financial report. The quarterly financial report shall present all data on a monthly basis as well. Monthly financial reports shall include reconciliation of general ledger amounts with amounts reported to the division. The quarterly financial report shall be submitted to the division within 45 calendar days from the end of each quarter.

C. The Casino Operator or its Holding Company or Intermediary Company shall submit to the division one copy of any report, including but not limited to Forms S-1, 8-K, 10-Q, and 10-K, required to be filed by the Casino Operator or its Holding Company or Intermediary Company with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency, within 15 days of the time of filing with such commission or agency or the due date prescribed by such commission or regulatory agency, whichever comes first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1925 (October 1999), amended LR 34:2654 (December 2008).

#### **§2711. Audited Financial Statements**

A. - C. ...

D. Casino Operator or Casino Manager shall engage an independent Certified Public Accountant (CPA) either one of the six largest accounting firms having a national practice in the United States of America or another accounting firm that is selected by the Casino Operator and approved by the Board. The independent CPA shall be Licensed by the Louisiana State Board of Certified Public Accountants. The CPA shall examine the statements in accordance with generally accepted auditing standards. The Casino Operator or Casino Manager may select the independent CPA with the division's Approval. The independent CPA is prohibited from providing internal audit services. Should the independent CPA, previously engaged as the principal accountant to audit the Casino Operator or Casino Manager's Financial Statements, resign or be dismissed as the principal accountant or if another CPA is engaged as principal accountant, the Casino Operator or Casino Manager shall file a report with the division within 10 days following the end of the month in which the event occurs, setting forth the following:

D.1. - E. ...

F. The Casino Operator or Casino Manager shall submit to the division two originally signed copies of its audited Financial Statements and the applicable CPA's letter of engagement within 90 calendar days of the end of the calendar year. In the event of a License termination, change in Business entity, or a change in the percentage of ownership of more than 20 percent, the Casino Operator or Casino Manager or former Casino Operator or Casino Manager shall, not later than 120 days after the event, submit to the division two originally signed copies of audited statements covering the period between the filing of the last Financial Statement and the date of the event. If a License termination, change in Business entity, or a change in the percentage of ownership of more than 20 percent occurs within 120 days after the end of the business year for which a statement has not been submitted, the Casino Operator or Casino Manager may submit statements covering both the business year and the final period of business.

G. If a Casino Operator or Casino Manager changes its Fiscal Year, the Casino Operator or Casino Manager shall prepare and submit to the division audited Financial Statements covering the period from the end of the previous business year to the beginning of the new business year not later than 120 days after the end of the period.

H. - I. ...

J. The division may request additional information and documents from either the Casino Operator or Casino Manager or the Casino Operator or Casino Manager's independent CPA, through the Casino Operator or Casino Manager, regarding the Financial Statements or the services performed by the accountant. The division may review any and all workpapers of the independent CPA at a time and place determined by the division. This requirement shall be included in agreements between the Casino Operator or Casino Manager and the independent CPA.

K. - L.4.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1926 (October 1999), amended LR 34:2655 (December 2008).

#### **§2715. Internal Control; General**

A. - A.8.e. ...

f. no sensitive key shall removed from the premises unless prior approval has been granted by the division. For purposes of this rule, premises is specified in the Casino Operator or Casino Manager's internal controls;

g. for approved electronically monitored key systems, the required number of witnesses shall be specified in the Casino Operator or Casino Manager's internal controls;

9. - 9.o. ...

10. all other sensitive keys not listed in §2715.A.9 are listed in the Casino Operator or Casino Managers' internal controls and are controlled as prescribed therein;

11. all damaged sensitive keys are disposed of timely and adequately. The Casino Operator or Casino Manager shall notify the division of the destruction. Notification shall include type of key(s), number of key(s), and the place and manner of disposal;

12. the Casino Operator or Casino Manager shall notify the division within 2 hours of discovery that a sensitive key may have been lost or removed from the premises;

A.13. - C. ...

D. A separate internal audit department (whose primary function is performing internal audit work and who is independent with respect to the departments subject to audit) shall be maintained by either the Casino Operator or Casino Manager, the parent company of the Casino Operator or Casino Manager, or be contracted to an independent CPA firm. The internal audit department or independent CPA firm shall develop quarterly reports providing details of all exceptions found and subsequent action taken by management. The Casino Operator or Casino Manager shall submit 2 copies of the internal audit report to the division as directed, within 60 days subsequent to the end of the previous quarter. All material exceptions resulting from internal audit work shall be investigated and resolved. The results of the investigation shall be documented and retained within the state of Louisiana for five years.

E. The Casino Operator or Casino Manager shall require the independent CPA engaged by the Casino Operator or Casino Manager for purposes of examining the Financial Statements to submit to the Casino Operator or Casino Manager two originally signed copies of a written report of the continuing effectiveness and adequacy of the Casino Operator or Casino Manager's written system of internal

control 120 days following the close of each calendar. Using the guidelines and standard internal control questionnaires and procedures established by the division, the independent CPA shall report each event and procedure discovered by or brought to the CPA's attention which the CPA believes does not satisfy the internal control System approved by the division. Within 30 days of delivery of the CPA's compliance report, the Casino Operator or Casino Manager shall submit an originally signed copy of the CPA's report and any other correspondence directly relating to the Casino Operator or Casino Manager's system of internal control to the division accompanied by the Casino Operator or Casino Manager's statement addressing each item of noncompliance as noted by the CPA and describing the corrective measures taken.

F. - L.3. ...

M. The Casino Operator or Casino Manager shall be responsible for pursuing all collection activities on the debt of a Patron whether such activities occur in the name of the owner or a third party.

N. The Casino Operator or Casino Manager shall have a continuing duty to review its internal controls to ensure the internal controls remain in compliance with the Act and these rules.

O. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1925 (October 1999), amended LR 34:2655 (December 2008).

#### **§2717. Internal Controls; Table Games**

A. - A.3. ...

4. Access to slips and slip processing areas shall be restricted to authorized personnel.

a. All unissued fill/credit slips shall be securely stored under the control of the accounting or Security department.

b. All unissued pre-numbered fill/credit slips shall be controlled by a log that the accounting department shall use, on a monthly basis, to reconcile to purchasing invoices for these slips.

A.5. - F.4. ...

G. Credit Procedures in the Pit

1. - 21. ...

22. Marker log documentation shall be maintained by numerical sequence, indicating marker number, name of Patron, date marker issued, date paid, method of payment (if combination, i.e., Chips/cash, amount paid by each method), and amount of credit remaining.

H. - I. ...

J. Table Games Drop Procedures. The Drop process shall be conducted at least once each gaming day according to a schedule submitted to the division setting forth the specific times for such Drops. Each Casino Operator or Casino Manager shall notify the division of any changes to such schedules at least five days prior to implementing a change to this schedule, except in emergency situations. Emergency Drops which require removal of the table Drop box require written notification to the division within 24 hours following the emergency. The Drop process shall be conducted as follows:

1. - 4. ...

K. Table Games Count Procedures. The counting of table Game Drop boxes shall be performed by a soft count team

with a minimum of three persons. Count tables shall be transparent to enhance monitoring. Surveillance shall be notified when the count process begins and the count process shall be monitored in its entirety and video taped by surveillance. At least one surveillance or internal audit employee shall monitor the table count process at least one randomly selected day per calendar week. Surveillance shall record on the surveillance log any exceptions or variations to established procedures observed during the count. Surveillance shall notify count team members immediately if surveillance observes the visibility of hands or other activity is consistently obstructed in any manner. Testing and verification of the accuracy of the currency counter shall be conducted and documented quarterly. This test shall be witnessed by someone independent of the count team members.

1. Count team members shall be:

a. rotated on a routine basis. Rotation is such that the count team does not consist of only the same three individuals more than four days per week;

K.1.b. - P.1.a. ...

b. MIS shall maintain either hard or disk copies of system-generated edit reports, exception reports, and transaction logs.

2. - 3.e. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1930 (October 1999), amended LR 34:2656 (December 2008).

#### **§2721. Internal Controls; Tips or Gratuities**

A. - C. ...

1. immediately deposited in a transparent locked box reserved for that purpose. If non-value Chips are received at a roulette table, the marker button indicating their specific value shall not be removed from the slot or receptacle attached to the outer rim of the roulette wheel until after a dealer, in the presence of a Supervisor, has converted them into value Chips which are immediately deposited in a transparent locked box reserved for that purpose. Procedures for accepting non-valued chips received as tips shall be defined in Casino Operator or Casino Manager's internal controls.

2. - 2.a. ...

3. placed in a pool for pro rata distribution among the dealers on a basis that coincides with the normal pay period. Tips or gratuities from this pool shall be deposited into the Casino Operator or Casino Manager's payroll account. Distributions to dealers from this pool shall be made following the Casino Operator or Casino Manager's payroll accounting practices and shall be subject to all applicable state and federal withholding taxes; and

4. ...

a. each dealer shall have a locked transparent box that has been marked with their name or otherwise coded for identification. Keys to these boxes shall be maintained by the cage department. When not in use, these boxes shall be stored in a locked storage cabinet or other approved lockable storage medium in the poker room itself. Keys to the storage cabinet shall be maintained and used as specified in the Casino Operator or Casino Manager's internal controls;

b. when a poker dealer arrives at their assigned poker table, the dealer shall obtain his/her marked

transparent locked box from the locked storage cabinet. The box shall be placed at the poker table in the same manner as any other dealer token box. If the dealer leaves the poker table for any reason, the dealer's marked box shall be removed from the table by the dealer and returned to the storage cabinet;

c. at the end of the dealer's shift, the dealer along with a verifier, shall take that dealer's marked transparent locked box to the cage for counting. The cage employee shall unlock, empty, and relock the box. The cage employee shall count the contents of the box in the presence of the dealer and the verifier. The amount shall be recorded on a three part voucher, and signed by the cage employee, the dealer, and the verifier. The three parts of the voucher shall be distributed as follows:

C.4.c.i. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1935 (October 1999), amended LR 34:2656 (December 2008).

### §2723. Internal Controls; Slots

A. Any reference to Slot Machines or slots in this Section includes all Electronic Gaming Devices. Provisions within this Section only applicable to requirements for use of coins or tokens shall not apply to coinless and tokenless devices.

B. - C.3. ...

4. number of credits played;

C.5. - D.1.c. ...

d. number of credits played;

e. - h. ...

i. signature of a slot attendant and an additional permitted gaming employee verifying and witnessing the Payout if the jackpot is less than \$1,200; signature of one slot attendant and Security officer verifying and witnessing the Payout if the jackpot is \$1,200 or greater; and with the exceptions of overrides, signature of one permitted gaming employee verifying and witnessing the payout if the jackpot is under an approved amount specified in the Casino Operator's internal controls.

2. A request for jackpot payout form may be used for "quick pay" or "pouch pay" if the following conditions are met:

a. the slot attendant and verifier sign the request;

b. the cage cashier verifies the required signatures on the request;

c. the cage cashier verifies the required information and the information matches the request on the jackpot payout form;

d. the cage cashier and slot attendant sign the jackpot payout form; and

e. the cage cashier attaches the request to the jackpot payout form.

3. Jackpot slips that are voided shall be clearly marked "Void" across the face of all copies. On manual slips, only the first and second copies shall have "Void" written across the face. The cashier and slot or cage Supervisor shall print their employee numbers and sign their names on the voided slip. The Supervisor who approves the void shall print or stamp the date and time the void is approved. A brief statement of why the void was necessary shall be written on

the face of all copies. All copies shall be forwarded to accounting for accountability and retention on a daily basis.

4. Computerized Jackpot/Payout systems shall be restricted so as to prevent unauthorized access and fraudulent Payouts by an individual.

5. Jackpot Payout forms shall be controlled and routed in a manner that precludes any one individual from producing a fraudulent Payout by forging signatures, or by altering the amount paid subsequent to the Payout, and misappropriating the Funds. One copy of the jackpot Payout slip shall be retained in a locked box located outside the change booth/cage where jackpot Payout slips are executed or as otherwise approved by the division.

6. Jackpot overrides shall have the notation "override" printed on all copies, and shall be approved by a supervisor. Jackpot override reports shall be run on a daily basis.

7. Jackpot Payout slips shall be used in sequential order.

E. - G. ...

H. If the jackpot is \$100,000 or more, the Casino Operator or Casino Manager shall notify the division immediately. Surveillance shall constantly monitor the Electronic Gaming Device until payment of the jackpot has been completed or until otherwise directed by a division Agent. A slot technician shall remove the electronic board housing the program storage media. The slot technician shall inspect and test in a manner prescribed by the division. Surveillance shall monitor the entire process of inspecting and testing. The Payout form shall be signed by a Casino shift manager or other designated employee as specified in the Casino Operator or Casino Manager's internal controls. The device shall not be placed back into service until all requirements of this Subsection are met.

I. - I.1.c. ...

d. signatures of at least two employees verifying and witnessing the slot fill; and

I.1.e. - K.2.e. ...

3. The slot count process shall be monitored in its entirety and videotaped by surveillance including transportation to the count room or other secured area as approved by the division. At least one surveillance or internal audit employee shall monitor the count process at least two randomly selected days per calendar month. Surveillance shall record on the surveillance log the times that the count process begins and ends, as well as any exceptions or variations to established procedures observed during the count, including each time the count room door is opened. Surveillance shall notify the count team members immediately if surveillance observes the visibility of hands or other activity is consistently obstructed in any manner.

4. Prior to each count, the count team shall perform a test of the weigh scale. The results shall be recorded and signed by at least two count team members. The initial weigh/count shall be performed by a minimum of three employees, who shall be rotated on a routine basis. The rotation shall be such that the count team does not consist of only the same three employees more than four days per week.

K.5. - L.4. ...

5. Prior to each count at least two employees shall verify the accuracy of the weigh scale with varying weights

or with varying amounts of previously counted coin for each denomination to ensure the scale is properly calibrated.

L.6. - Q.1. ...

2. The currency acceptor Drop box shall be removed by an employee independent of the slot department according to a schedule, submitted to the division, setting forth the specific times for such Drops. The Casino Operator or Casino Manager shall notify the division at least five days prior to implementing a change to this schedule, except in emergency situations. Emergency Drops, including those for maintenance and repairs which require removal of the currency acceptor Drop box, require written notification to the division within 24 hours detailing date, time, machine number and reason. Prior to emptying or removing any currency acceptor Drop box, the Drop team shall notify Security and surveillance that the Drop is beginning.

3. - 9. ...

10. The currency acceptor count shall be performed in the soft count room and shall be videotaped by surveillance. If at any time surveillance observes the visibility of the count team's hands or other activity is consistently obstructed, surveillance shall immediately notify count room employees. At least one surveillance or internal audit employee shall monitor the currency acceptor count process at least two randomly selected days per calendar month. Surveillance shall record on the surveillance log any exceptions or variations to established procedures observed during the count.

11. ...

12. Currency acceptor count team members shall be rotated on a routine basis. Rotation shall be such that the count team does not consist of only the same three employees more than four days per week.

Q.13. - S.2.a. ...

b. MIS shall print and review the computer Security access report at the end of each month. Discrepancies shall be investigated, documented and maintained for five years.

S.2.c. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1936 (October 1999), amended LR 26:2306 (October 2000), LR 31:1605 (July 2005), amended LR 34:2657 (December 2008).

### **§2730. Exchange of Tokens and Chips**

A. ...

B. The exchange shall occur at any Casino cage.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1947 (October 1999), amended LR 34:2658 (December 2008).

### **§2731. Currency Transaction Reporting**

A. - D. ...

E. For each required Currency Transaction Report or Suspicious Activity Report, a clear surveillance photograph of the Patron shall be taken and attached to the Casino Operator or Casino Manager's copy of the Currency Transaction Report or Suspicious Activity Report. If a clear photograph cannot be taken at the time of the transaction, a file photograph, if available, of the Patron may be used to supplement the required photograph taken. The Casino

Operator or Casino Manager shall maintain and make available for Inspection all copies of Currency Transaction Reports or Suspicious Activity Reports, with the attached photographs, for a period of five years.

F. One legible copy of all Currency Transaction Reports for Casinos filed with the Internal Revenue Service shall be forwarded to the division by the fifteenth day after the date of the transaction in a manner determined by the division.

G. One legible copy of all Suspicious Activity Reports for Casinos, filed with the Internal Revenue Service by the Casino Operator or Casino Manager shall be forwarded to the division, in a manner determined by the division, in accordance with Federal deadlines.

H. The Casino Operator or Casino Manager shall be responsible for maintaining a single log which aggregates all transactions in excess of \$3,000 from the various multiple transaction log as follows:

1. All cash transactions in excess of \$2,500 shall be recorded on a multiple transaction log for aggregation of the multiple transactions and signed by the employee handling the transaction. Records of the aforementioned transactions must be aggregated on the single log required by this Section.

2. Any multiple transaction log which reflects no activity shall be signed by the supervisor.

3. The employee handling the transaction shall be responsible for accurate and complete log entries. No log entry shall be omitted. Each log entry shall include the date and time, the amount of the transaction, the location of the transaction, the type of transaction, and the name or physical description of the Patron.

4. Once any patron's cash activity has exceeded \$2,500, any and all additional cash activity shall be logged regardless of the amount or location.

5. Personnel of the pit and cage shall coordinate their efforts to reasonably ensure all cash transactions in excess of \$2,500 are properly logged and aggregated.

6. Personnel of the pit and cage shall coordinate their efforts to reasonably ensure any required currency transaction reports are properly completed.

7. As the \$10,000 amount is about to be exceeded, the employee consummating the transaction shall be responsible for obtaining and verifying the patron's identification prior to completing the transaction.

8. All multiple transaction logs shall be turned in to the cage for submittal to the accounting department daily.

I. The information required to be gathered by this Section shall be obtained from the individual on whose behalf the transaction is conducted, if other than the patron.

J. If a patron is unable or unwilling to provide any of the information required for currency transaction reporting, the transaction shall be terminated until such time that the required information is provided.

K. A transaction shall not be completed if it is known that the patron is seeking to avoid compliance with currency transaction requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1947 (October 1999), amended LR 34:2658 (December 2008).

### **§2735. Gross Gaming Revenue Computations**

A. For each table Game, Gross Gaming Revenue shall equal the soft count Drop, plus or minus the change in table inventory, plus or minus the Chip float adjustment. The change in table inventory shall be equal to the beginning table inventory, plus Chip fills to the table, less credits from the table, less ending table inventory. The first step in the calculation of the Chip float adjustment shall be the daily Chip float calculation which shall be the total Chips received to date (i.e., the initial Chips received from vendors plus all subsequent shipments of Chips received) less the total Day's Chip count (i.e., the sum of Chips in the vault, cage drawers, tables, change lockers and all other locations). The daily ending inventory Chip count shall at no time exceed the total amount of Chips in the total Casino Chip accountability. If at any time the calculated daily Chip float is less than zero, the Casino Operator or Casino Manager shall adjust to reflect a zero current Day Chip float. Afterwards, the Chip float adjustment shall be calculated daily by subtracting the previous Day's Chip from the current Day's Chip float.

B. For each Slot Machine, Gross Gaming Revenue shall equal Drops less fills to the machine and jackpot Payouts, plus or minus the Token float adjustment. The first step in the calculation of the Token float adjustment shall be the daily Token float calculation which shall be the total Tokens received to date (i.e., the initial Tokens received from vendors plus all subsequent shipments of Tokens received) less the total Day's Token count (i.e., Tokens in the hard count room plus Tokens in the vault, cage drawers, change lockers, Tokens in other locations and initial Tokens in hoppers). The daily ending inventory Token count shall at no time exceed the total amount of Tokens in the total Casino Token accountability. Foreign Tokens and slugs do not constitute a part of Token inventory. If at any time the calculated daily Token float is less than zero, the Casino Operator or Casino Manager shall adjust to reflect a zero current Day Token float. The initial hopper load is not a fill and does not affect gross revenue.

C. For each card Game and any other Game in which the Casino Operator is not a party to a Wager, Gross Gaming Revenue shall equal all money received by the Casino Operator or Casino Manager as compensation for conducting the Game, including time buy-ins. A time buy-in is a fixed amount of money charged for the right to participate in certain Games for a period of time.

D. - E. ...

F. All gaming tournaments conducted by or on behalf of the Casino Operator or Casino Manager require prior written approval by the division, and are subject to the following requirements:

1. All entry fees, buy-ins, re-buys and similar payments, paid by or on behalf of tournament participants, shall be included in gross gaming revenue. For purposes of calculating gross gaming revenue, all cash prizes awarded in the tournament may be deducted as payouts up to the amount received from and on behalf of tournament participants. No other deductions shall be made for purposes of calculating gross gaming revenues. If cash prizes awarded exceed revenues received from or on behalf of tournament participants, the licensee may not deduct the excess and declare a loss against gross gaming revenues.

2. All amounts paid directly or indirectly, by or on behalf of a person playing in a tournament and cash prizes shall be reported on gaming revenue summaries in a manner approved by the division. Copies of source documents such as transfer slips of the participant's entry fees to either the vault or cage and transfer slips of participant's winnings paid out from either the cage or the vault must accompany the gaming revenue summary on which the entry fee or payout is reported.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1948 (October 1999), amended LR 34:2659 (December 2008).

### **Chapter 29. Operating Standards Generally**

#### **§2901. Code of Conduct of the Casino Operator, Casino Manager, Licensees and Permittees**

A. - A.3. ...

4. All required notifications to the division shall be in writing.

B. - B.5. ...

C. Additional Causes for Disciplinary Action

1. - 1.j. ...

k. failure to obtain approval from the division prior to changing, adding, or altering the casino. For the purpose of this Section, altering the casino configuration does not include the routing movement of EGDs for cleaning and/or maintenance purposes.

D. - D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1950 (October 1999), amended LR 27:59 (January 2001), LR 29:2506 (November 2003), amended LR 34:2659 (December 2008).

#### **§2907. Reporting**

A. The Casino Operator and Casino Manager shall submit to the division on a quarterly basis, a report containing a list of all non-gaming suppliers that have received \$5,000 or more from the Casino Operator or Casino Manager during the previous quarter, or an amount equal to or greater than the amount provided in R.S. 27:29:3 during the preceding calendar year as payment for providing non-gaming services or goods to the Casino Operator or Casino Manager. This report shall include the name and address of the non-gaming supplier, a description of the type of goods or services provided, the non-gaming suppliers permit number, if applicable, federal tax identification number, and total amount of all payments made by the Casino Operator or Casino Manager, or any person acting on behalf of the Casino Operator or Casino Manager, to each non-gaming supplier. For each non-gaming supplier listed in this quarterly report which is a provider of professional services as defined in §2166(A)(9), the Casino Operator or Casino Manager shall also submit a brief statement describing the nature and scope of the professional service rendered by each such provider, the number of hours of work performed by each such provider, and the total amount paid to each such provider by the Casino Operator or the Casino Manager or any person acting on behalf of the Casino Operator or the Casino Manager during the previous quarter. This report shall be received by the division no later than the last day of the month following the quarter being reported.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1950 (October 1999), amended LR 34:2659 (December 2008).

#### **§2922. Promotions**

A. - B. ...

C. Promotional programs, including contests or tournaments, which impair the integrity of the Games, the Security, surveillance and well-being of persons in the Official Gaming Establishment or the calculation of gaming revenue are prohibited. Issuance of coupons, scrip, and other cash equivalents used in conjunction with a promotion that does not impact the calculation of gaming revenues, shall be considered a promotional expense of the Casino Operator or Casino Manager. If the Casino Operator or the Casino Manager intends to offer coupons, scrip, and cash equivalents as part of a promotion it shall adopt internal controls, prior to the implementation of any such programs, governing the use and accountability of the coupon, scrip, or cash equivalent, as prescribed by the division.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:335 (February 2000), amended LR 27:1557 (September 2001), LR 30:90 (January 2004), amended LR 34:2660 (December 2008).

#### **§2923. Tournaments**

A. - A.3. ...

4. The Casino Operator or Casino Manager must maintain tournament documentation for five years.

5. The Casino Operator or Casino Manager shall report tournaments on the gaming revenue summary in accordance with §2735.

6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:336 (February 2000), amended LR 27:1557 (September 2001), amended LR 34:2660 (December 2008).

### **Chapter 33. Surveillance**

#### **§3301. Required Surveillance Equipment**

A. - A.1.f.iii. ...

g. such other areas as designated by the division.

2. - 12. ...

13. at all times during the conduct of gaming, the Casino Operator shall have as a reserve, six back-up cameras and appropriate recording equipment as approved by the division in the event of failure;

14. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1968 (October 1999), amended LR 34:2660 (December 2008).

#### **§3302. Digital Video Recording Standards**

A. In addition to the requirements of §3301, the use of digital recording equipment may be authorized if the following requirements are met.

B. As used herein, a *digital video recording (DVR)* shall mean: visual images of the natural world converted into

numbers and stored on tape, digital video disk, or other storage medium, for later reproduction.

C. All DVR equipment and systems used by the Casino Operator or Casino Manager in its surveillance system shall:

1. record and replay activity in all gaming areas where cash is handled including but not limited to cages, vaults, count rooms, table games, and the drop process, at a minimum of 30 frames per second and in real time; and in all other gaming areas, a minimum number of frames per second as specified in the Type A license's internal controls as approved by the division;

2. record, review and download simultaneously without an interruption of the recorded feature;

3. have visual image resolution of a minimum of 4CIF (common intermediate format) and must be of sufficient clarity to meet division requirements;

4. maintain for a period of not less than seven days, or additional period as specified by the division, all images obtained from the video cameras;

5. have a failure notification system that provides an audible, as well as a visual notification of any failure in the surveillance system or the DVR media storage system;

6. have a media storage system that is configured so that a failure of any single component will not result in the loss of any data from the media storage system; and

7. be connected to an uninterruptible power source to ensure the safe shutdown of the system in the event of a power loss, and must reboot in the record mode.

D. For areas where gaming is conducted, cameras not specifically addressed by the surveillance standards must provide minimum frames per second as specified by the division.

E. Any part of the Casino Operator or Casino Manager's surveillance system that uses a DVR, may not use quads and/or multi-view devices to record activity in gaming related areas. In areas where the use of quads and/or multi-view devices are authorized, no more than 4 cameras may be recorded on one device.

F. If the Casino Operator or Casino Manager uses a network for the digital recording equipment, it must be a closed network with limited access. The Casino Operator or Casino Manager must seek authorization from the division prior to implementation. The Casino Operator or Casino Manager must provide written policies on the administration of the network, including employee access levels, which set forth the location and to whom access is being provided, other than surveillance personnel and key employees, and certifies that the transmission is encrypted, fire walled on both ends and password protected.

G. If the Casino Operator or Casino Manager requests to allow remote access to its network by the provider, written procedures must be submitted to the division for approval. The remote access must be encrypted, fire walled on both ends and password protected. A written report must be generated weekly indicating the person given access, date, beginning and ending time, and reason for access. This report must be reviewed at each end of the system to ensure that there has not been any unauthorized access. The reviewer must initial and date this report.

H. All digital video disks and other storage media produced from the DVR system must have a visual resolution of 640 x 480 pixels or greater unless the division

determines that an alternate visual resolution can achieve the clarity required to meet the purposes of this Section; and must contain the data with the time and date it was recorded superimposed, the media player that has the software necessary to view the DVR images, as well as a video verification encryption code (also known as a watermark).

I. The Casino Operator or Casino Manager must provide the division with the necessary software/hardware, as specified by the division, to review a downloaded recording and the video verification encryption code (watermark), at no cost to the division, before the division's inspection and approval of the DVR system. A watermark will be required to authenticate dates/times and the validity of live and archived data.

J. The Casino Operator or Casino Manager is responsible for training permitted surveillance employees in the use of the digital system and downloading recordings for evidentiary purposes.

K. Surveillance room equipment must have override capability over all surveillance equipment located outside the surveillance room, except for the division's surveillance room.

L. The division's surveillance room must be equipped as specified by the division and fully functional with total override capabilities.

M. Any failure of a DVR storage media system, resulting in loss of data or picture, shall be immediately reported to the division, and shall be repaired or replaced within 8 hours of the failure.

N. All DVR equipment must be located in the surveillance room of the Casino Operator or Casino Manager, or other areas as approved by the division, and the Surveillance Department shall be ultimately responsible for its proper operation and maintenance.

O. A Casino Operator or Casino Manager shall obtain prior authorization from the division if any portion of their surveillance system is changed from an analog to a DVR format, setting forth what the change will be, when the change will occur, and how the change will affect their surveillance system as a whole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 34:2660 (December 2008).

## **Chapter 42. Electronic Gaming Devices**

### **§4204. Progressive Electronic Gaming Devices**

A. - C.5. ...

D. Transferring of Progressive Jackpot Which Is in Play

1. All transfers of progressive jackpots require prior written authorization from the division.

2. A progressive jackpot which is currently in play may be transferred to another progressive EGD in the casino in the event of:

a. EGD malfunction;

b. EGD replacement;

c. the licensee distributes the incremental amount to another progressive jackpot at the licensee's establishment and:

i. the casino operator or casino manager documents the distribution;

ii. any machine offering the jackpot to which the casino operator or casino manager distributes the

incremental amount does not require that more money be played on a single play to win the jackpot, than the machine from which the incremental amount is distributed;

iii. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.A.2; and

iv. the distribution is completed within 30 days after the progressive jackpot is removed from play or within such longer period as the division may for good cause approve; or

v. the division approves a reduction, elimination, distribution, or procedure not otherwise described in this Subsection, which approval is confirmed in writing;

vi. licensees shall preserve the records required by this Section for at least five years; or

d. other good reason deemed appropriate by the division to ensure compliance with this LAC 42:IX. Chapter 42.

3. All progressive jackpot transfers shall be prominently posted at or near the applicable EGD at least 14 days in advance of the requested transfer date.

4. If the events set forth above do not occur, the progressive award shall be permitted to remain until it is won by a player or transfer is approved by the division.

E. - K.3. ...

L. Progressive Controller

1. A progressive controller entry authorization log shall be maintained within each controller. The log shall be on a form prescribed by the division and completed by each individual who gains entrance to the controller. These logs shall be retained for a minimum of five years.

L.2. - M.1. ...

N. The casino operator or casino manager shall not reduce the amount displayed on a progressive jackpot meter or otherwise eliminate a progressive jackpot unless:

1. - 3. ...

4. the casino operator or casino manager distributes the incremental amount to another progressive jackpot at the casino operator or casino manager's establishment and:

a. obtains prior written authorization from the division;

b. the Casino Operator or Casino Manager documents the distribution;

c. any machine offering the jackpot to which the Casino Operator or Casino Manager distributes the Incremental Amount does not require that more money be played on a single play to win the jackpot, than the machine from which the Incremental Amount is distributed;

d. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.A.2; and

e. the distribution is completed within 30 days after the Progressive Jackpot is removed from play or within such longer period as the division may for good cause approve; or

f. the division approves a reduction, elimination, distribution, or procedure not otherwise described in this Subsection, which approval is confirmed in writing;

g. all progressive jackpot transfers shall be prominently posted at or near the applicable EGD at least 14 days in advance of the requested transfer date.

N.5. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2311 (October 2000), amended LR 31:1605 (July 2005), LR 34:2661 (December 2008).

**§4205. Computer Monitoring Requirements of Electronic Gaming Devices**

A. - B. ...

1. record the number and total value of cash equivalents placed in the EGD for the purpose of activating play;

2. record the total value of credits received from the currency acceptor for the purpose of activating play;

3. record the number and total value of cash equivalents deposited in the Drop bucket of the EGD;

4. record the number and total value of cash equivalents automatically paid by the EGD as the result of a jackpot;

5. record the number and total value of cash equivalents to be paid manually as the result of a jackpot. The system shall be capable of logging in this data if such data is not directly provided by EGD;

6. have an on-line computer alert, alarm monitoring capability to insure direct scrutiny of conditions detected and reported by the EGD, including any device malfunction, any type of tampering, and any open door to the Drop area. In addition, any person opening the EGD or the Drop area shall complete the machine entry authorization log including time, date, machine identity and reason for entry; with exclusion of the Drop team. These machine entry authorization logs shall be retained for a minimum of five years;

B.7. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2313 (October 2000), amended LR 34:2662 (December 2008).

**§4206. Employment of Individual to Respond to Inquiries from the Division**

A. Each Manufacturer shall employ or retain an individual who understands the design and function of each of its EGD's who shall respond within the time specified by the division to any inquiries concerning the EGD or any modifications to the device. Each Manufacturer shall on or before December 31 of each year report in writing the name of the individual designated pursuant to this Section and shall report in writing any change in the designation within 15 days of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2314 (October 2000), amended LR 34:2662 (December 2008).

**§4209. Approval of New Electronic Gaming Devices**

A. - A.2.dd.i.(f.) ...

ii. The bill validators may be for single denomination or combination of denominations.

iii. Bill validators may accept other items as approved by the division.

ee. - jj.i. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2314 (October 2000), amended LR 29:2507 (November 2003), LR

31:1602 (July 2005), LR 31:1606 (July 2005), amended LR 34:2662 (December 2008).

**§4211. Duplication of Program Storage Media**

A. - B.3. ...

C. Program Storage Media Labeling

1. Each duplicated program storage media shall have an attached adhesive label containing the following:

C.1.a. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2319 (October 2000), amended LR 34:2662 (December 2008).

**§4214. Maintenance of Electronic Gaming Devices**

A. The Casino Operator or Casino Manager shall not alter the operation of an approved EGD except as provided in these rules and regulations and shall maintain the EGD's as required in this Chapter. The casino operator or casino manager shall keep a written list of repairs made to the EGD offered for play to the public that require a replacement of parts that affect the game outcome, and any other maintenance activity on the EGD, and shall make the list available for inspection by the division upon request. The written list of repairs shall be logged in the machine M.E.A.L. book which shall be kept in the EGD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:2320 (October 2000), amended LR 31:1606 (July 2005), amended LR 34:2662 (December 2008).

**§4220. Record Retention**

A. Machine Entry Authorization Logs, Progressive Controller Entry Authorization Logs, and Program Storage Media duplication logs, required by this Chapter, or an electronic facsimile thereof, shall be maintained and accessible to the division for five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 34:2662 (December 2008).

**Chapter 43. Specifications for Gaming Equipment and Electronic Devices**

**§4301. Approval of Chips and Tokens; Applications and Procedures**

A. - B. ...

1. an exact drawing or electronic file, in color or in black and white, of each side and the edge of the proposed Chip or Token, drawn to actual size or drawn to larger than actual size and in scale, and showing the measurements of the proposed Chip or Token in each dimension;

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1976 (October 1999), amended LR 34:2662 (December 2008).

**§4303. Specifications for Chips and Tokens**

A. ...

B. In addition to such other Specifications as the division may approve:

1. solid chips and tokens:

a. the name of the Casino must be inscribed on each side of each Chip and Token, and the city or other locality and the state where the establishment is located must be inscribed on at least one side of each Chip and Token;

b. the value of the Chip or Token must be inscribed on each side of each Chip and Token, other than Chips used exclusively at roulette;

c. the Manufacturer's name or a distinctive logo or other mark identifying the Manufacturer must be inscribed on at least one side of each Chip and Token; and

d. each Chip must be designed so that when stacked with Chips and Tokens of other denominations and viewed on closed circuit, black and white televisions, the denominations of the Chip can be distinguished from that of the other Chips and Tokens in the stack;

2. electronic chips.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1977 (October 1999), amended LR 34:2662 (December 2008).

#### §4305. Specifications for Chips

A. Unless the division approves otherwise, solid chips must be disk-shaped, must be 0.130 inch thick, and must have a diameter of:

A.1. - B.1. ...

2. \$2.50 pink;

3. - 7. ...

8. \$5,000 gray;

9. \$10,000 yellow;

10. \$25,000 bright blue; and

11. \$100,000 gold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1977 (October 1999), amended LR 34:2663 (December 2008).

#### §4313. Inventory of Chips

A. ...

B. The Casino Operator shall, on a daily basis, compute and record the unredeemed liability for each denomination of Chips in circulation and cause the result of such inventory to be recorded in the Chip inventory ledger. On a monthly basis, the Casino Operator shall cause an inventory of Chips in reserve to be made and cause the result of such inventory to be recorded in the Chip inventory ledger. The procedures to be utilized to compute the unredeemed liability and to inventory Chips in circulation and reserve shall be included in the internal controls submitted to the division for Approval. A physical inventory of Chips in reserve shall be required annually if the inventory procedures incorporate the sealing of the locked compartment.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1978 (October 1999), amended LR 34:2663 (December 2008).

#### §4321. Dice; Receipt, Storage, Inspections and Removal from Use

A. ...

B. The Casino Operator shall include in its internal control submissions, procedures for:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1980 (October 1999), amended LR 34:2663 (December 2008).

#### §4325. Cards; Receipt, Storage, Inspections and Removal from Use

A. ...

B. The Casino Operator shall include in its internal control submissions, procedures for:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1981 (October 1999), amended LR 34:2663 (December 2008).

### Part XIII. Riverboat Gaming

#### Subpart 2. State Police Riverboat Gaming Division

#### Chapter 17. General Provisions

#### §1701. Definitions

A. ...

\*\*\*

Drop—

a. for table games, the total amount of money and cash equivalents contained in the drop boxes;

b. for slot machine, the total amount of money and cash equivalents removed from the drop box and the bill validator acceptor drop box, or for cashless slot machines, the amounts deducted from a player's slot account as a result of slot machine play.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1139 (November 1996), LR 24:344 (February 1998), LR 26:1314 (June 2000), LR 29:363 (March 2003), amended LR 34:2663 (December 2008).

#### Chapter 21. Licenses and Permits

#### §2108. Nongaming Suppliers

A. Any nongaming supplier, regardless of whether having been permitted or not and regardless of the dollar amount of goods or services provided to a licensee may be requested to apply to the division for a finding of suitability.

B. Unless otherwise notified by the division in writing, a licensee shall conduct business with a nongaming supplier only if:

1. such supplier possesses a valid nongaming permit which has been placed in an approved status by the division; or

2. such supplier has been issued a waiver from the division regarding the necessity of obtaining a permit, pursuant to the provisions of Subsections E or F of this Section.

3. Repealed.

C. It shall be the responsibility of each licensee to ensure that it has not paid more than the amount provided in R.S. 27:29.3 to any nongaming supplier during any calendar year period as payment for providing nongaming services or goods, unless such nongaming supplier holds a valid

nongaming permit which has been placed in an approved status by the division or has been issued a waiver regarding the necessity of obtaining such a permit from the division pursuant to Subsections D or E of this Section.

D. The following nongaming suppliers shall be deemed to have been waived by the division from the necessity of obtaining a nongaming permit pursuant to this Section:

1. nonprofit charitable organizations, and educational institutions which receive funds from the licensee, including educational institutions that receive tuition reimbursement on behalf of employees of a licensee:

a. *nonprofit charitable organization* shall mean a nonprofit board, association, corporation, or other organization domiciled in this state and qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(c)(3), (4), (5), (6), (7), (8), (10), or (19) of the Internal Revenue Code;

2. entities which provide one or more of the following services to a licensee and which are the sole source provider of such service:

- a. water;
- b. sewage;
- c. electricity;
- d. natural gas; or
- e. local telephone services;

3. regulated insurance companies providing insurance to a licensee and its employees including providers of medical, life, dental, and property insurance;

4. administrators of employee benefit and retirement plans including incorporated 401K plans and employee stock purchase programs;

5. national or local professional associations which receive funds from a licensee for the cost of enrollment, activities, and membership;

6. all state, federal, and municipal operated agencies;

7. all liquor, beer and wine industries regulated by the Office of Alcohol and Tobacco Control;

8. state and federally regulated banks and savings and loan associations;

9. newspapers, televisions stations and radio stations which contract with licensees to provide advertising services;

10. providers of professional services, including but not limited to accountants, architects, attorneys, consultants, engineers and lobbyists, when acting in their respective professional capacities;

11. hotels and restaurants;

12. nationwide shipping services, including Federal Express, United Parcel Service, Airborne Express and Emory Freight;

13. publicly traded companies or wholly owned subsidiaries of publicly traded companies subject to regulation by the Securities and Exchange Commission, who are in good standing and are current with filings.

E. Any nongaming supplier required to obtain a nongaming permit, other than those listed in Subsection E in this Section may request a waiver of the necessity of obtaining a nongaming permit. The division may grant such a request upon a showing of good cause by the nongaming supplier. The division may rescind any such waiver which has been previously granted upon written notice to the nongaming supplier.

F. Junket representatives shall be subject to the provisions of this Section in the same manner as other nongaming suppliers.

G. Each licensee shall submit to the division, on a quarterly basis, a report containing a list of all non-gaming suppliers that have received \$10,000 or more from the licensee during the previous quarter, or an amount equal to or greater than the amount required by R.S 27:29:3 during the preceding calendar year as payment for providing nongaming services or goods to the licensee. This report shall include the name and address of the non-gaming supplier, a description of the type of goods or services provided, the non-gaming suppliers permit number, if applicable, federal tax identification number, and the total amount of all payments made by the licensee, or any person acting on behalf of the licensee, to each non-gaming supplier. For each non-gaming supplier listed in this quarterly report which is a provider of professional services as defined in Paragraphs E.10-13 of this Section, each licensee shall also submit a brief statement describing the nature and scope of the professional service rendered by each such provider, the number of hours of work performed by each such provider, and the total amount paid to each such provider by the licensee or any person acting on behalf of the licensee during the previous quarter. This report shall be received by the division not later than the last day of the month following the quarter being reported.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:1317 (June 2000), amended LR 34:2663 (December 2008).

#### **§2116. Cash Transaction Reporting**

A. Each licensee shall report any administrative or criminal proceedings against it alleging a violation pertaining to a cash transaction report, as defined by the Internal Revenue Service, to the division within 10 days of knowledge by the licensee of the violation.

B. Any violation of a cash transaction reporting requirement by a licensee or its affiliates in any other jurisdiction shall be reported to the division within 30 days of the notice of violation in the other jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:2664 (December 2008).

#### **Chapter 25. Transfers of Interest in Licenses and Permittees; Loans and Restrictions**

##### **§2524. Publicly Registered Debt and Securities**

A. ...

1. file with the division within 15 days after filing with the SEC, copies of all registration statements and all final prospectus with respect to such debt securities and will give notice to the division within 15 days of effectiveness of such registration statement; and

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:746 (June 1997), amended LR 34:2664 (December 2008).

## **Chapter 27. Accounting Regulations**

### **§2701. Procedure for Reporting and Paying Gaming Revenues and Fees**

A. All Gaming Revenue Summary reports, together with all necessary subsidiary schedules, required under the Act shall be submitted to the division no later than 48 hours from the end of the licensee's specified gaming day in a manner specified by the division.

1. For reporting purposes, licensee's specified gaming day (beginning time to ending time) shall be submitted in writing to the division prior to implementation.

2. For licensees which offer 24-hour gaming, gaming day is the 24-hour period by which the casino keeps its books and records for business, accounting, and tax purposes.

3. Each licensee shall have only one gaming day, common to all its departments. Any change to the gaming day shall be submitted to the division 10 days prior to implementation of the change.

B. All license and franchise fees related thereto must be electronically transferred to the state's designated bank account as directed by the division. In addition to any other administrative action, civil penalties, or criminal penalties, licensees who are late in electronically transferring these fees may retroactively be assessed late penalties of 15 percent of the amount due per annum after notice and opportunity for a hearing held in accordance with the Administrative Procedure Act. Interest may be imposed on the late payment of fees at the daily rate of 0.00041 multiplied by the amount of unpaid fees for each day the payment is late.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1876 (October 1999), repromulgated LR 25:2232 (November 1999), amended LR 34:2665 (December 2008).

### **§2707. Record Retention**

A. ...

B. Each licensee shall conduct a complete system backup to an off-site location a minimum of once a month. For purposes of this rule, the off-site storage facility is specified in the licensee's internal controls. A complete system backups includes, but is limited to:

1. all automated slot data information;
2. all automated table game information;
3. all automated cage and credit information; and
4. all automated revenue reports.

C. Licensees must have a written contingency plan in the event of a system failure or other event resulting in the loss of system data. The plan shall address backup and recovery procedures and shall be sufficiently detailed to ensure the timely restoration of data in order to resume operations after a hardware or software failure or other event that results in the loss of data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended

by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1878 (October 1999), repromulgated LR 25:2233 (November 1999), amended LR 34:2665 (December 2008).

### **§2709. Standard Financial Statements**

A. - B. ...

C. Each licensee shall submit to the division one copy of any report, including but not limited to Forms S-1, 8-K, 10-Q, and 10-K, required to be filed by the licensee with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency, within 15 days of the time of filing with such commission or agency or the due date prescribed by such commission or regulatory agency, whichever comes first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 25:1878 (October 1999), repromulgated LR 25:2234 (November 1999), amended LR 34:2665 (December 2008).

### **§2711. Audited Financial Statements**

A. - C. ...

D. Each licensee shall engage an independent Certified Public Accountant (CPA) licensed by the Louisiana State Board of Certified Public Accountants. The CPA shall examine the statements in accordance with generally accepted auditing standards. The licensee may select the independent CPA with the division's approval. The independent CPA is prohibited from providing internal audit services. Should the independent CPA previously engaged as the principal accountant to audit the licensee's financial statements resign or be dismissed as the principal accountant, or if another CPA is engaged as principal accountant, the licensee shall file a report with the division within 10 days following the end of the month in which the event occurs, setting forth the following:

D.I. - F. ...

G. If a licensee changes its fiscal year, the licensee shall prepare and submit to the division audited financial statements covering the period from the end of the previous business year to the beginning of the new business year not later than 120 days after the end of the period.

H. - I. ...

J. The division may request additional information and documents from either the licensee or the licensee's independent CPA, through the licensee, regarding the financial statements or the services performed by the accountant. The division may review any and all workpapers of the independent CPA at a time and place determined by the division. This requirement shall be included in agreements between the licensee or its affiliates and the independent CPA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1878 (October 1999), repromulgated LR 25:2234 (November 1999), amended LR 34:2665 (December 2008).

## §2715. Internal Control; General

A. - A.8.e. ...

f. no sensitive key shall removed from the Premises unless prior approval has been granted by the division. For purposes of this rule, Premises is specified in the Licensee's internal controls;

g. for approved electronically monitored key systems, the required number of witnesses shall be specified in the licensee's internal controls;

9. - 11. ...

12. the licensee shall notify the division within 2 hours of discovery that a sensitive key may have been lost or removed from the Premises;

13. all access to the count rooms and the vault is documented on a log maintained by the count team and vault personnel respectively. Such logs shall be kept in the count rooms and vault room respectively, such logs shall be available at all times, and such logs shall contain entries with the following information:

- a. name of each person entering the room;
- b. reason each person entered the room;
- c. date and time each person enters and exits the room;
- d. date, time and type of any equipment malfunction in the room;
- e. a description of any unusual events occurring in the room; and
- f. such other information required in the licensee's internal controls as approved by the division;

14. only transparent trash bags are utilized in restricted areas.

B. - C. ...

D. A separate internal audit department (whose primary function is performing internal audit work and who is independent with respect to the departments subject to audit) shall be maintained by either the licensee, the parent company of the licensee, or be contracted to an independent CPA firm. The internal audit department or independent CPA firm shall develop quarterly reports providing details of all exceptions found and subsequent action taken by management. Each licensees shall submit 2 copies of the internal audit report to the division as directed, within 60 days subsequent to the end of the previous quarter. All material exceptions resulting from internal audit work shall be investigated and resolved. The results of the investigation shall be documented and retained within the state of Louisiana for five years.

E. - L.3. ...

M. A licensee shall be liable as an insurer for all collection activities on the debt of a patron whether such activities occur in the name of the owner or a third party.

N. The licensee shall have a continuing duty to review its internal controls to ensure the internal controls remain in compliance with the Act and these rules.

O. - Q. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1879 (October 1999), repromulgated LR

25:2235 (November 1999), amended LR 26:2306 (October 2000), LR 34:2666 (December 2008).

## §2717. Internal Controls; Table Games

A. - A.4.a. ...

b. All unissued pre-numbered fill/credit slips shall be controlled by a log that the accounting department shall use, on a monthly basis, to reconcile to purchasing invoices for these slips.

A.5. - G.21. ...

22. Marker log documentation shall be maintained by numerical sequence, indicating marker number, name of patron, date marker issued, date paid, method of payment (if combination, i.e., chips/cash, amount paid by each method), and amount of credit remaining.

H. - I. ...

J. Table Games Drop Procedures. The drop process shall be conducted at least once each gaming day according to a schedule submitted to the division setting forth the specific times for such drops. Each licensee shall notify the division of any changes to such schedules at least five days prior to implementing a change to this schedule, except in emergency situations. Emergency drops which require removal of the table drop box require written notification to the division within 24 hours. The drop process shall be conducted as follows:

1. - 4. ...

K. Table Games Count Procedures. The counting of table game drop boxes shall be performed by a soft count team with a minimum of three persons. Count tables shall be transparent to enhance monitoring. Surveillance shall be notified when the count process begins and the count process shall be monitored in its entirety and video taped by surveillance. At least one surveillance or internal audit employee shall monitor the count process at least one randomly selected day per calendar week. Surveillance shall record on the surveillance log any exceptions or variations to established procedures observed during the count. Surveillance shall notify count team members immediately if surveillance observes the visibility of hands or other activity is consistently obstructed in any manner. Testing and verification of the accuracy of the currency counter shall be conducted and documented quarterly. This test shall be witnessed by someone independent of the count team members.

1. Count team members shall be:

a. rotated on a routine basis. Rotation is such that the count team does not consist of only the same three individuals more than four days per week;

K.1.b. - P.1.a. ...

b. MIS shall maintain either hard or disk copies of system-generated edit reports, exception reports, and transaction logs.

2. - 3.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1882 (October 1999), repromulgated LR 25:2237 (November 1999), amended LR 34:2666 (December 2008).

**§2721. Internal Controls; Tips or Gratuities**

A. - C. ...

1. immediately deposited in a transparent locked box reserved for that purpose. If nonvalue chips are received at a roulette table, the marker button indicating their specific value shall not be removed from the slot or receptacle attached to the outer rim of the roulette wheel until after a dealer in the presence of a supervisor has converted them into value chips which are immediately deposited in a transparent locked box reserved for that purpose. Procedures for accepting non-valued chips received as tips shall be defined in licensees' internal controls;

2. ...

3. placed in a pool for pro rata distribution among the dealers on a basis that coincides with the normal pay period. Tips or gratuities from this pool shall be deposited into the licensee's payroll account. Distributions to dealers from this pool shall be made following the licensee's payroll accounting practices and shall be subject to all applicable state and federal withholding taxes; and

4. ...

a. each dealer shall have a locked transparent box that has been marked with their name or otherwise coded for identification. Keys to these boxes shall be maintained by the cage department. When not in use, these boxes shall be stored in a locked storage cabinet or other approved lockable storage medium in the poker room itself. Keys to the storage cabinet shall be maintained and used as specified in the licensee's internal controls;

b. when a poker dealer arrives at his assigned poker table, the dealer shall obtain his/her marked transparent locked box from the locked storage cabinet. The box shall be placed at the poker table in the same manner as any other dealer token box. If the dealer leaves the poker table for any reason, the dealer's marked box shall be removed from the table by the dealer and returned to the storage cabinet;

c. at the end of the dealer's shift, the dealer along with a verifier, shall take that dealer's marked transparent locked box to the cage for counting. The cage employee shall unlock, empty, and relock the box. The cage employee shall count the contents of the box in the presence of the dealer and the verifier. The amount shall be recorded on a three-part voucher, and signed by the cage employee, the dealer, and the verifier. The three parts of the voucher shall be distributed as follows:

C.4.c.i. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by Department of Public Safety and Corrections, Gaming Control Board, LR 24:1503 (August 1998), LR 25:1887 (October 1999), repromulgated LR 25:2242 (November 1999), amended LR 34:2667 (December 2008).

**§2723. Internal Controls; Slots**

A. Any reference to slot machines or slots in this Section includes all electronic gaming devices. Provisions within this Section only applicable to requirements for use of coins and tokens shall not apply to coinless or tokenless devices.

B. - C.3. ...

4. number of credits played;

C.5. - D.1.c. ...

d. number of credits played;

e. - h. ...

i. signature of a slot attendant and an additional permitted gaming employee verifying and witnessing the payout if the jackpot is less than \$1,200; Signature of one slot attendant and security officer verifying and witnessing the payout if the jackpot is \$1,200 or greater; and with the exceptions of overrides, signature of one permitted gaming employee verifying and witnessing the payout if the jackpot is under an approved amount specified in the licensee's internal controls.

2. A request for jackpot payout form may be used for quick-pay or pouch-pay if the following conditions are met:

a. the slot attendant and verifier sign the request;

b. the cage cashier verifies the required signatures on the request;

c. the cage cashier verifies the information on the request matches the information on the jackpot payout form;

d. the cage cashier and slot attendant sign the jackpot payout form; and

e. the cage cashier attaches the request to the jackpot payout form.

3. - 5. ...

6. Jackpot overrides shall have the notation "override" printed on all copies, and shall be approved by a supervisor. Jackpot override reports shall be run on a daily basis.

E. - G. ...

H. If the jackpot is \$100,000 or more, the licensee shall notify the division immediately. Surveillance shall constantly monitor the electronic gaming device until payment of the jackpot has been completed or until otherwise directed by a division agent. A slot technician shall remove the electronic board housing the program storage media. The slot technician, shall inspect and test the EPROM's in a manner prescribed by the division. Surveillance shall monitor the entire process of inspecting and testing. The payout form shall be signed by a casino shift manager or other designated employee as specified in the licensee's internal controls. The device shall not be placed back into service until all requirements of this Subsection are met.

I. - K.2.e. ...

3. The slot count process shall be monitored in its entirety and videotaped by surveillance including transportation to the count room or other secured area as approved by the division. At least one surveillance or internal audit employee shall monitor the count process at least two randomly selected days per calendar month. Surveillance shall record on the surveillance log the times that the count process begins and ends, as well as any exceptions or variations to established procedures observed during the count, including each time the count room door is opened. If surveillance observes the visibility of the count team's hands or other activity is continuously obstructed at any time, surveillance shall immediately notify the count room employees.

4. Prior to each count, the count team shall perform a test of the weigh scale. The results shall be recorded and signed by at least two count team members. The initial weigh/count shall be performed by a minimum of three employees, who shall be rotated on a routine basis. The rotation shall be such that the count team does not consist of

only the same three employees more than four days per week.

K.5. - L.4. ...

5. Prior to each count at least two employees shall verify the accuracy of the weigh scale with varying weights or with varying amounts of previously counted coin for each denomination to ensure the scale is properly calibrated.

L.6. - Q.1. ...

2. The currency acceptor drop box shall be removed by an employee independent of the slot department according to a schedule, submitted to the division, setting forth the specific times for such drops. Each licensee shall notify the division at least five days prior to implementing a change to this schedule, except in emergency situations. Emergency drops, including those for maintenance and repairs which require removal of the currency acceptor drop box, require written notification to the division within 24 hours detailing date, time, machine number and reason. Prior to emptying or removing any currency acceptor drop box, the drop team shall notify security and surveillance that the drop is beginning.

3. - 9. ...

10. The currency acceptor count shall be performed in the soft count room and shall be videotaped by surveillance. If at any time surveillance observes the visibility of the count team's hands or other activity is consistently obstructed, surveillance shall immediately notify count room employees. At least one surveillance or internal audit employee shall monitor the currency acceptor count process at least two randomly selected days per calendar month. Surveillance shall record on the surveillance log any exceptions or variations to established procedures observed during the count.

11. ...

12. Currency acceptor count team members shall be rotated on a routine basis. Rotation shall be such that the count team does not consist of only the same three employees more than four days per week.

Q.13. - W.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1887 (October 1999), repromulgated LR 25:2243 (November 1999), amended LR 26:2306 (October 2000), LR 31:1607 (July 2005), amended LR 34:2667 (December 2008).

### §2730. Exchange of Tokens and Chips

A. ...

B. The exchange shall occur at any casino cage.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1898 (October 1999), repromulgated LR 25:2254 (November 1999), amended LR 34:2668 (December 2008).

### §2731. Currency Transaction Reporting

A. - D. ...

E. For each required Currency Transaction Report or Suspicious Activity Report, a clear surveillance photograph of the patron shall be taken and attached to the licensee's copy of the Currency Transaction Report or Suspicious Activity Report. If a clear photograph cannot be taken at the time of the transaction, a file photograph of the patron, if available, may be used to supplement the required photograph taken. The licensee shall maintain and make available for inspection all copies of Currency Transaction Reports or Suspicious Activity Reports, with the attached photographs, for a period of five years.

F. One legible copy of all Currency Transaction Reports for casinos filed with the Internal Revenue Service shall be forwarded to the division by the fifteenth day after the date of the transaction in a manner determined by the division.

G. One legible copy of all Suspicious Activity Reports for Casinos, filed by the License with the Internal Revenue Service shall be forwarded to the division in a manner determined by the division, in accordance with Federal deadlines.

H. The licensee shall be responsible for maintaining a single log which aggregates all transactions in excess of \$3,000 from the various multiple transaction logs as follows.

1. All cash transactions in excess of \$3,000 shall be recorded on a multiple transaction log for aggregation of the multiple transactions and signed by the employee handling the transaction. Records of the aforementioned transactions must be aggregated on the single log required by this Section.

2. Any multiple transaction log which reflects no activity shall be signed by the supervisor.

3. The employee handling the transaction shall be responsible for accurate and complete log entries. No log entry shall be omitted. Each log entry shall include the date and time, the amount of the transaction, the location of the transaction, the type of transaction, and the name or physical description of the patron.

4. Once any patron's cash activity has exceeded \$3,000, any and all additional cash activity shall be logged regardless of the amount or location.

5. Personnel of the pit and cage shall coordinate their efforts to ensure all cash transactions in excess of \$3,000 are properly logged and aggregated.

6. Personnel of the pit and cage shall coordinate their efforts to ensure any required currency transaction reports are properly completed.

7. As the \$10,000 amount is about to be exceeded, the employee consummating the transaction shall be responsible for obtaining and verifying the patron's identification prior to completing the transaction.

8. All multiple transaction logs shall be turned in to the cage for submittal to the accounting department daily.

I. The information required to be gathered by this Section shall be obtained from the individual on whose behalf the transaction is conducted, if other than the patron.

J. If a patron is unable or unwilling to provide any of the information required for currency transaction reporting, the

transaction shall be terminated until such time that the required information is provided.

K. A transaction shall not be completed if it is known that the patron is seeking to avoid compliance with currency transaction requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1898 (October 1999), repromulgated LR 25:2254 (November 1999), amended LR 34:2668 (December 2008).

### **§2735. Net Gaming Proceeds Computations**

A. For each table game, net gaming proceeds shall equal the soft count drop, plus or minus the change in table inventory, plus or minus the chip float adjustment. The change in table inventory shall be equal to the beginning table inventory, plus chip fills to the table, less credits from the table, less ending table inventory. The first step in the calculation of the chip float adjustment shall be the daily chip float calculation which shall be the total chips received to date (i.e., the initial chips received from vendors plus all subsequent shipments of chips received) less the total day's chip count (i.e., the sum of chips in the vault, cage drawers, tables, change lockers and all other locations). The daily ending inventory chip count shall at no time exceed the total amount of chips in the total casino chip accountability. If at any time the calculated daily chip float is less than zero, the licensee shall adjust to reflect a zero current day chip float. Afterwards, the chip float adjustment shall be calculated daily by subtracting the previous day's chip float from the current day's chip float.

B. For each slot machine, net gaming proceeds shall equal drops less fills to the machine and jackpot payouts, plus or minus the token float adjustment. The first step in the calculation of the token float adjustment shall be the daily token float calculation which shall be the total tokens received to date (i.e., the initial tokens received from vendors plus all subsequent shipments of tokens received) less the total day's token count (i.e., tokens in the hard count room plus tokens in the vault, cage drawers, change lockers, tokens in other locations and initial tokens in hoppers). The daily ending inventory token count shall at no time exceed the total amount of tokens in the total casino token accountability. Foreign tokens and slugs do not constitute a part of token inventory. If at any time the calculated daily token float is less than zero, the licensee shall adjust to reflect a zero current day token float. The initial hopper load is not a fill and does not affect gross revenue.

C. - D. ...

E. Slot machine meter readings from the drop process shall not be utilized to calculate net gaming proceeds, unless otherwise approved by the division.

F. All gaming tournaments conducted by or on behalf of the licensee require prior written approval by the division, and subject to the following requirements:

1. all entry fees, buy-ins, re-buys, and similar payments, paid by or on behalf of tournament participants, shall be included in net gaming proceeds. No cost incurred by the licensee associated with holding the tournament shall be deducted from the tournament revenues before

calculating the net gaming proceeds. For the purposes of calculating net gaming proceeds, all cash prizes awarded in the tournament may be deducted as payouts up to the amount received from or on behalf of tournament participants. Not other deductions shall be made for purposes of calculating net gaming proceeds. If cash prizes awarded exceed revenues received from or on behalf of tournament participants, the licensee may not deduct the excess and declare a loss against net gaming proceeds; and

2. all amounts paid directly or indirectly, by or on behalf of a person playing in a tournament and cash prizes shall be reported on gaming revenue summaries in a manner approved by the division. Copies of source documents such as transfer slips of the participant's entry fees to either the vault or cage and transfer slips of participant's winnings paid out from either the cage or the vault must accompany the gaming revenue summary on which the entry fee or payout is reported.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1899 (October 1999), repromulgated LR 25:2254 (November 1999), amended LR 34:2669 (December 2008).

## **Chapter 29. Operating Standards**

### **§2901. Code of Conduct of Licensees and Permittees**

A. - A.3. ...

4. All required notifications to the division shall be in writing.

B. - C.1.j. ...

k. failure to obtain approval from the division prior to changing, adding, or altering the casino configuration. For the purpose of this Section, altering the casino configuration does not include the routine movement of EGDs for cleaning and/or maintenance purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:60 (January 2001), LR 29:2507 (November 2003), amended LR 34:2669 (December 2008).

### **§2937. Distributions**

A. The division shall receive written notice within five days of the completion for the following transactions:

1. withdrawal of capital in excess of 5 percent of the licensee's net gaming proceeds for the preceding 12-month period;

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:2669 (December 2008).

### **§2953. Promotions**

A. - B. ...

C. Promotional programs, including contests or tournaments, which impair the integrity of the games, the security, surveillance and well-being of persons on the

licensee's property or the calculation of gaming revenue are prohibited. Issuance of coupons, scrip, and other cash equivalents used in conjunction with a promotion that does not impact the calculation of gaming revenues, shall be considered a promotional expense of the licensee. Licensees who intend to offer coupons, scrip, and cash equivalents as part of a promotion shall adopt internal controls prior to the implementation of any such programs governing the use and accountability of the coupon, scrip, or cash equivalent, as prescribed by the division.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:1558 (September 2001), LR 30:90 (January 2004), amended LR 34:2669 (December 2008).

#### **§2954. Tournaments**

A. - A.3. ...

4. Licensees must maintain tournament documentation for five years.

5. Licensees shall report tournaments on the gaming revenue summary in accordance with §2735.

A.6. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:1559 (September 2001), amended LR 34:2670 (December 2008).

### **Chapter 33. Surveillance and Security**

#### **§3301. Required Surveillance Equipment**

A. - A.1.f.iii. ...

g. such other areas as designated by the division;

2. - 12. ...

13. at all times during the conduct of gaming, the licensee shall have as a reserve, six back-up cameras and appropriate recording equipment as approved by the division in the event of failure;

14. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:956 (May 1998), amended LR 34:2670 (December 2008).

#### **§3302. Digital Video Recording Standards**

A. In addition to the requirements of §3301, the use of digital recording equipment may be authorized if the following requirements are met.

B. As used herein, a *digital video recording (DVR)* shall mean: visual images of the natural world converted into numbers and stored on tape, digital video disk, or other storage medium, for later reproduction.

C. All DVR equipment and systems used by a licensee in its surveillance system shall:

1. record and replay activity in all gaming areas where cash is handled including but not limited to cages, vaults, count rooms, table games, and the drop process, at a minimum of 30 frames per second and in real time; and in all other gaming areas, a minimum number of frames per

second as specified in the licensee's internal controls as approved by the division;

2. record, review and download simultaneously without an interruption of the recorded feature;

3. have visual image resolution of a minimum of 4CIF (common intermediate format) and must be of sufficient clarity to meet division requirements;

4. maintain for a period of not less than seven days, or additional period as specified by the division, all images obtained from the video camera;

5. have a failure notification system that provides an audible, as well as a visual notification of any failure in the surveillance system or the DVR media storage system;

6. have a media storage system that is configured so that a failure of any single component will not result in the loss of any data from the media storage system; and

7. be connected to an uninterruptible power source to ensure the safe shutdown of the system in the event of a power loss, and must reboot in the record mode.

D. For areas where gaming is conducted, cameras not specifically addressed by the surveillance standards must provide minimum frames per second as specified by the division.

E. Any part of the licensee's surveillance system that used a DVR, may not use quads and/or multi-view devices to record activity in gaming related areas. In areas where the use of quads and/or multi-view devices are authorized, no more than 4 cameras may be recorded on one device.

F. If the licensee uses a network for the digital recording equipment, it must be a closed network with limited access. The licensee must seek authorization from the division prior to implementation. The licensee must provide written policies on the administration of the network, including employee access levels, which set forth the location and to whom access is being provided, other than surveillance personnel and key employees, and certifies that the transmission is encrypted, fire walled on both ends and password protected.

G. If the licensee requests to allow remote access to its network by the provider, written procedures must be submitted to the division for approval. The remote access must be encrypted, fire walled on both ends and password protected. A written report must be generated weekly indicating the person given access, date, beginning and ending time, and reason for access. This report must be reviewed at each end of the system to ensure that there has not been any unauthorized access. The reviewer must initial and date this report.

H. All digital video disks or other storage media produced from the DVR system must have a visual resolution of 640 x 480 pixels or greater unless the division determines that an alternate visual resolution can achieve the clarity required to meet the purposes of this Section; and must contain the data with the time and date it was recorded superimposed, the media player that has the software necessary to view the DVR images and a video verification encryption code (also known as a watermark).

I. The licensee must provide the division with the necessary software/hardware, as specified by the division, to review a downloaded recording and the video verification encryption code (watermark), at no cost to the division, before the division's inspection and approval of the DVR

system. A watermark will be required to authenticate dates/times and validity of live and archived data.

J. The licensee is responsible for training permitted surveillance employees in the use of the digital system and downloading recordings for evidentiary purposes.

K. Surveillance room equipment must have override capability over all surveillance equipment located outside the surveillance room, except for the division's surveillance room.

L. The division's surveillance room must be equipped as specified by the division and fully functional with total override capabilities.

M. Any failure of a DVR storage media system, resulting in loss of data or picture, shall be immediately reported to the division, and shall be repaired or replaced within 8 hours of the failure.

N. All DVR equipment must be located in the surveillance room of the licensee, or other areas as approved by the division, and the Surveillance Department shall be ultimately responsible for its proper operation and maintenance.

O. A licensee shall obtain prior authorization from the division if any portion of their surveillance system is changed from an analog to a DVR format, setting forth what the change will be, when the change will occur, and how the change will affect their surveillance system as a whole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 34:2670 (December 2008).

#### **Chapter 40. Designated Check Cashing Representatives**

##### **§4003. Cash Transaction Reporting**

A. ...

B. Violation of cash transaction reporting requirements in any other jurisdiction by a designated check cashing representative shall be reported to the division within 30 days of the notice of violation in the other jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:337 (February 2000), amended LR 34:2671 (December 2008).

##### **§4009. Internal Controls; Cage and Credit**

A. Each check cashing cage shall comply with the following minimum requirements.

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:338 (February 2000), amended LR 34:2671 (December 2008).

#### **Chapter 42. Electronic Gaming Devices**

##### **§4201. Division's Central Computer System (DCCS)**

A. Pursuant to R.S. 27:30.6, the Legislature of Louisiana has mandated that all electronic gaming devices on all riverboats shall be linked by telecommunications to a central computer system for purposes of monitoring and reading device activities.

B. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:716 (April 2000), amended LR 34:2671 (December 2008).

##### **§4204. Progressive Electronic Gaming Devices**

A. - D. ...

1. All transfers of progressive jackpots require prior written authorization from the division.

2. A progressive jackpot which is currently in play may be transferred to another progressive EGD on the riverboat in the event of:

a. EGD malfunction;

b. EGD replacement;

c. the licensee distributes the incremental amount to another progressive jackpot at the licensee's establishment; and:

i. the licensee documents the distribution;

ii. any machine offering the jackpot to which the licensee distributes the incremental amount does not require that more money be played on a single play to win the jackpot, than the machine from which the incremental amount is distributed;

iii. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.A.2; and

iv. the distribution is completed within 30 days after the progressive jackpot is removed from play or within such longer period as the division may for good cause approve; or

v. the division approves a reduction, elimination, distribution, or procedure not otherwise described in this subsection, which approval is confirmed in writing;

vi. licensees shall preserve the records required by this Section for at least five years; or

d. other good reason deemed appropriate by the division to ensure compliance with this LAC 42:XIII.Chapter 42.

3. All progressive jackpot transfers shall be prominently posted at or near the applicable EGD at least 14 days in advance of the requested transfer date.

4. If the events set forth above do not occur, the progressive award shall be permitted to remain until it is won by a player or transfer is approved by the division.

E. - K.3. ...

L. Progressive Controller

1. A progressive controller entry authorization log shall be maintained within each controller. The log shall be on a form prescribed by the division and completed by each individual who gains entrance to the controller. These logs shall be retained for a minimum of 5 years.

L.2. - N.4. ...

a. obtains prior written authorization from the division;

b. the licensee documents the distribution;

c. any machine offering the jackpot to which the licensee distributes the incremental amount does not require that more money be played on a single play to win the jackpot, than the machine from which the incremental amount is distributed;

d. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.A.2; and

e. any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement of §4203.A.2; and

f. the division approves a reduction, elimination, distribution, or procedure not otherwise described in this Subsection, which approval is confirmed in writing;

g. all progressive jackpot transfers shall be prominently posted at or near the applicable EGD at least 14 days in advance of the requested transfer date.

N.5. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:718 (April 2000), amended LR 31:1607 (July 2005), amended LR 34:2671 (December 2008).

#### **§4205. Computer Monitoring Requirements of Electronic Gaming Devices**

A. - B. ...

1 record the number and total value of cash equivalents placed in the EGD for the purpose of activating play;

2. ...

3. record the number and total value of cash equivalents deposited in the drop bucket of the EGD;

4. record the number and total value of cash equivalents automatically paid by the EGD as the result of a jackpot;

5. record the number and total value of cash equivalents to be paid manually as the result of a jackpot. The system shall be capable of logging in this data if such data is not directly provided by EGD; and

6. have an on-line computer alert, alarm monitoring capability to insure direct scrutiny of conditions detected and reported by the EGD, including any device malfunction, any type of tampering, and any open door to the drop area. In addition, any person opening the EGD or the drop area shall complete the machine entry authorization log including time, date, machine identity and reason for entry; with exclusion of the drop team. These machine entry authorization logs shall be retained for a minimum of 5 years;

B.7. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:720 (April 2000), amended LR 34:2672 (December 2008).

#### **§4206. Employment of Individual to Respond to Inquiries from the Division**

A. Each manufacturer shall employ or retain an individual who understands the design and function of each of its EGD's who shall respond within the time specified by the division to any inquiries concerning the EGD or any modifications to the device. Each manufacturer shall on or before December 31 of each year report in writing the name of the individual designated pursuant to this Section and shall report in writing any change in the designation within 15 days of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:720 (April 2000), amended LR 34:2672 (December 2008).

#### **§4209. Approval of New Electronic Gaming Devices**

A. - A.18. ...

19. No Licensee or other person shall modify an EGD without prior written approval from the division. A request shall be made by completing form(s) prescribed by the division/board and filing it with the respective field office. The licensee shall ensure that the information listed on the EGD form(s) is true and accurate. Any misstatement or omission of information shall be grounds for denial of the request and may be cause for enforcement action.

20. ...

21. EGD's shall meet the following minimum and maximum theoretical percentage payout during the expected lifetime of the EGD:

a. the EGD shall pay out at least 80 percent and not more than 99.9 percent of the amount wagered;

b. the theoretical payout percentage shall be determined using standard methods of the probability theory. The percentage shall be calculated using the highest level of skill where player skill impacts the payback percentage;

c. an EGD shall have a probability of obtaining the maximum payout greater than one in 50,000,000; and

d. an EGD shall be capable of continuing the current play with all the current play features after an EGD malfunction is cleared.

22. Modifications to an EGD's program shall be considered only if the new program has been approved by an approved designated gaming laboratory.

23. A licensee shall be allowed to test, on a limited basis, newly approved programs. The licensee shall file an EGD 96-01 Form and indicate in Field 21 that the request is for a 90-day trial period.

24. - 32.a. ...

b. The bill validators may be for single denomination or combination of denominations.

c. Bill validators may accept other items as approved by the division.

33. - 37.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:721 (April 2000), amended LR 29:2508 (November 2003), LR 31:1603 (July 2005), LR 31:1607 (July 2005), amended LR 34:2672 (December 2008).

#### **§4211. Duplication of Program Storage Media**

A. - A.4. ...

B. Required Documentation

1. Each licensee shall maintain a program storage media duplication log which shall contain:

1.a. - 3. ...

C. Program Storage Media Labeling

1. Each duplicated program storage media shall have an attached adhesive label containing the following:

C.1.a. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:726 (April 2000), amended LR 34:2672 (December 2008).

#### **§4214. Maintenance of Electronic Gaming Devices**

A. A licensee shall not alter the operation of an approved EGD except as provided in these rules and shall maintain the EGDs as required by this Chapter. Each licensee shall keep a written list of repairs made to the EGD offered for play to the public that require a replacement of parts that affect the game outcome, and any other maintenance activity on the EGD, and shall make the list available for inspection by the division upon request. The written list of repairs shall be logged in the machine M.E.A.L. book which shall be kept in the EGD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:727 (April 2000), amended LR 31:1608 (July 2005), LR 34:2673 (December 2008).

#### **§4220. Record Retention**

A. Machine Entry Authorization Logs, Progressive Controllor Entry Authorization Logs, and Program Storage Media duplication logs, required by this Chapter, or an electronic facsimile thereof, shall be maintained and accessible to the division for five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 34:2673 (December 2008).

### **Chapter 43. Specifications for Gaming Devices and Equipment**

#### **§4301. Approval of Chips and Tokens; Applications and Procedures**

A. - B. ...

1. an exact drawing or electronic file, in color or in black and white, of each side and the edge of the proposed chip or token, drawn to actual size or drawn to larger than actual size and in scale, and showing the measurements of the proposed chip or token in each dimension;

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:2673 (December 2008).

#### **§4303. Specifications for Chips and Tokens**

A. ...

B. In addition to such other specifications as the division may approve:

1. solid chips:

a. the name of the issuing gaming establishment must be inscribed on each side of each chip and token, and the city or other locality and the state where the establishment is located must be inscribed on at least one side of each chip and token;

b. the value of the chip or token must be inscribed on each side of each chip and token, other than chips used exclusively at roulette;

c. the manufacturer's name or a distinctive logo or other mark identifying the manufacturer must be inscribed on at least one side of each chip and token; and

d. each chip must be designed so that when stacked with chips and tokens of other denominations and viewed on closed circuit, black and white televisions, the denominations of the chip can be distinguished from that of the other chips and tokens in the stack;

2. electronic chips.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:2673 (December 2008).

#### **§4305. Specifications for Chips**

A. Unless the division approves otherwise, solid chips must be disk-shaped, must be 0.130 inch thick, and must have a diameter of:

A.1. - C.1. ...

2. \$2.50 pink;

3. - 7. ...

8. \$5,000 gray;

9. \$10,000 yellow;

10. \$25,000 bright blue; or

11. \$100,000 gold

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:2673 (December 2008).

#### **§4313. Inventory of Chips**

A. ...

B. Each licensee shall, on a daily basis, compute and record the unredeemed liability for each denomination of chips in circulation and cause the result of such inventory to be recorded in the chip inventory ledger. On a monthly basis, each licensee shall cause an inventory of chips in reserve to be made and cause the result of such inventory to be recorded in the chip inventory ledger. The procedures to be utilized to compute the unredeemed liability and to inventory chips in circulation and reserve shall be included in the internal controls submitted to the division for approval. A physical inventory of chips in reserve shall be required annually if the inventory procedures incorporate the sealing of the locked compartment.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:2673 (December 2008).

#### **§4315. Redemption and Disposal of Discontinued Chips and Tokens**

A. - B.5. ...

6. such destruction must be to the satisfaction of the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:2673 (December 2008).

**§4321. Dice; Receipt, Storage, Inspections and Removal from Use**

- A. ...
- B. The licensee shall include in its internal control submissions, procedures for:
  - 1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:2674 (December 2008).

**§4325. Cards; Receipt, Storage, Inspections and Removal from Use**

- A. ...
- B. The licensee shall include in its internal control submissions, procedures for:

1. a card inventory system which shall include, at a minimum, the recordation of the following:

- a. the balance of cards on hand;
- b. the cards removed from storage;
- c. the cards returned to storage or received from the manufacturer;
- d. the date of the transaction; and
- e. the signatures of the individuals involved;

2. a physical inventory of the cards at least once every three months:

- a. this inventory shall be performed by an individual with no incompatible functions and shall be verified to the balance of cards on hand required in Subparagraph B.1.a above;
- b. any discrepancies shall immediately be reported to the division;
- c. the licensee shall retain the work papers developed and utilized for a physical inventory of the cards for a period of three years;

3. cancellation and marking techniques for cards removed from play.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended LR 34:2674 (December 2008).

H. Charles Gaudin  
Chairman

0812#050

**RULE**

**Department of Public Safety and Corrections  
Office of State Police  
Transportation and Environmental Safety Section**

**Explosive Code (LAC 55:I.Chapter 15)**

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 40:1472.1 et seq., hereby amends its rules regulating explosives to incorporate legislative changes with regard to the various classes of persons who are involved in the explosives industry, as well as to require a photographic identification card, increased training for those who handle

explosives, and to require an emergency contact telephone number.

**Title 55  
PUBLIC SAFETY  
Part I. State Police**

**Chapter 15. Explosive Code**

**Subchapter A. General**

**§1503. Definitions**

\*\*\*

*Dealer-Distributor*—any person engaged in the wholesale or retail business of buying and selling, or distribution of explosives, provided that should a manufacturer make sales to users, such manufacturer shall not be required to obtain an additional license as a dealer.

\*\*\*

*Emergency Contact Telephone Number*—a telephone number that will be answered by a knowledgeable company representative who can answer questions about the company's product stored in said company's licensed explosive magazine twenty four hours daily seven days per week including holidays. The contact person shall also have the ability to provide or effect a timely response in the event of an emergency or an incident requiring a response.

\*\*\*

*Handler*—a person who touches, moves, or otherwise handles explosives but does not detonate or otherwise effect the explosion of explosives or explosives materials. The license issued to a handler shall not be used by a blaster or user who uses explosives as an ultimate consumer.

\*\*\*

*Magazine License Number*—the number of a specific magazine license assigned to a specific magazine by Louisiana Department of Public Safety, Explosive Control Unit.

*Manufacturer*—a person engaged in the manufacture, compounding, or combining of explosives.

\*\*\*

*Primary Licensee*—the responsible party holding a valid manufacturer, dealer-distributor or user license.

\*\*\*

*Unauthorized Persons*—persons not employed by the licensed company or authorized by the licensed manufacturer, dealer-distributor or user.

*User*—a person who, as an ultimate consumer of an explosive, purchases the same from a dealer-distributor or manufacturer or means a dealer or manufacturer who uses an explosive as an ultimate consumer.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 26:90 (January 2000), LR 34:2674 (December 2008).

**§1505. General Administrative Requirements**

- A. ...
- B. No person under the age of 21 shall purchase, acquire or handle explosives or explosive supplies.

C. ...

D. No person or business shall possess, keep, store, sell, or offer for sale, give away, use, transport, or dispose of, or otherwise handle in any manner any explosive or blasting agent except in conformity with the provisions of R.S. 40:1472.1 through R.S. 40:1472.19 and these rules and regulations. Nothing in this Subsection shall be so construed as to prevent hand-loaders of ammunition from giving small quantities of black powder or smokeless propellant to one another in quantities of one pound or less.

E. ...

F. Prior to the sale of any explosives, manufacturers and dealer-distributors shall verify the license status of the purchaser's explosive license with the Department of Public Safety, Explosives Control Unit. Invoices of sales shall be forwarded to the Department of Public Safety and Corrections, Explosives Control Unit on a weekly basis. These sale slips or invoices must be legible, correct and complete.

G. - I. ...

J. Each manufacturer, dealer-distributor, user, blaster, or handler shall possess a valid and subsisting license issued by the Office of the Deputy Secretary of Public Safety Services, in accordance with the provisions of R.S. 40:1472.1 through 40:1472.19. All applicants for a license shall submit with their application two complete, legible, and classifiable FBI applicant fingerprint cards taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints.

K. A photo license issued by the Office of the Deputy Secretary of Public Safety Services shall be in the possession of the licensee while actively engaged in explosive handling. An original or copy of the paper license issued by the Office of the Deputy Secretary of Public Safety Services must be maintained at the licensee's local office. A fee of \$25 shall be paid to the Department of Public Safety and Corrections, Explosives Control Unit for any necessary replacement or modification of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 34:2674 (December 2008).

### §1511. Magazine Construction Requirements

A. - B. ...

C. Magazine sites upon which outdoor type magazines are located shall be posted with signs reading "explosives-keep out" (or equivalent) legibly printed thereon in letters not less than 2 inches high. These signs shall be visible from any direction. A second sign shall be posted at the entrance of the facility and shall read "Danger—Never fight explosives fires—Explosives are stored on this site—Call (Emergency Phone Number)" legibly printed thereon in letters not less than 2 inches high. Such signs shall be located so as to minimize the possibility of a bullet traveling in the direction of the magazine if anyone should shoot at the sign. All licensed magazines shall have a license number and

24 hour emergency telephone contact number affixed to the front of the magazine in the following manner:

1. An emergency contact telephone number will be painted with a contrasting color in 2 inch or larger numbers on the front of the magazine.

2. The license number assigned by the Louisiana Department of Public Safety, Explosive Control Unit, for that specific magazine will be permanently inscribed, welded, or otherwise permanently affixed to the front of the magazine in letters and numbers at least 2 inches high.

D. Magazines shall not be provided with heat or lights, except that if lights are necessary, an approved safety flashlight or safety lantern shall be used, provided however, trailer mounted portable magazines while containing no explosives shall use normal automobile lighting systems required for highway use. The Office of the Deputy Secretary of Public Safety Services may waive the requirements of this Subsection if adequate safety is assured.

E. Magazines constructed according to the following minimum specifications are approved as bullet-resistant and fire-resistant.

#### 1. Exterior Construction

a. The exterior and doors are to be constructed of not less than 1/4 inch steel and lined with at least 2 inches of hardwood. Magazines with top openings will have lids with water-resistant seals or which overlap the sides by at least 1 inch when in a closed position.

#### 2. General

a. Outdoor magazines (Type 1 and 2) are to be bullet-resistant, fire-resistant, weather-resistant, theft-resistant and ventilated. They are to be supported to prevent direct contact with the ground and, if less than 1 cubic yard in size, must be securely fastened to a fixed object. The ground around outdoor magazines must slope away for drainage or other adequate drainage provided. When unattended, vehicular magazines must have wheels removed or otherwise effectively immobilized by kingpin locking devices or other methods approved by the director.

b. Magazines shall be constructed in accordance with the rules and regulations of the Bureau of Alcohol, Tobacco, Firearms and Explosives, 27 Code of Federal Regulations Parts 555.207, 555.208, 555.209, 555.210, 555.211.

Types 1, 2, 3 or 4 magazines shall be constructed with a lattice, paint, mastic, or equivalent lining, to prevent contact of explosive materials with masonry walls or ferrous metal.

F. A Type 3 magazine is a "day box" or other portable magazine. It must be theft-resistant, fire-resistant, and weather-resistant (does not have to be bullet-resistant).

1. Minimum specifications require that a "day box" be constructed of not less than 12-gauge (.1046 inch) (2.66 mm) steel or aluminum, lined with 1/2 inch (12.7 mm) hardboard or plywood. The door or lid must overlap the door opening by at least 1 inch (25 mm). Hinges, hasps, and panels shall be welded, riveted, or bolted (with nuts on inside) so they cannot be removed or disassembled from the outside.

2. The magazine shall be equipped with at least a 5-tumbler padlock (which need not be protected by a steel hood) meeting the lock requirements outlined in §1511.I.1 of this Chapter.

3. Explosive materials are not to be left unattended in Type 3 magazines and must be removed to Type 1 or Type 2 magazines. This requirement does not apply to offshore operations.

G. Unattended vehicular Type 5 magazines shall have wheels removed or shall be immobilized by kingpin locking devices. Placards required by DOT must be displayed on all Type 5 magazines containing blasting agents.

H. Magazines used for indoor storage shall be fire- and theft-resistant. They do not have to be weather- and bullet-resistant if the buildings in which they are stored provide protection from the weather and from bullet penetration.

1. No indoor storage facility shall contain more than 50 pounds (22.7 kg) of explosive materials or more than 5,000 detonators. When explosive materials and detonators are stored in the same building they shall be stored in separate magazines.

2. No indoor storage magazine for explosive materials shall be located in a residence or dwelling.

3. Indoor magazines shall be provided with handles or substantial wheels or casters to facilitate removal from a building in an emergency.

I. All magazines shall be equipped with approved locking devices which shall conform to at least the following minimum standards of quality and design:

1. padlocks shall consist of a steel or brass case of at least 1 1/8 inch thickness, with case hardened steel shackles of 3/8 inch diameter and 2-inch maximum length when in the locked position. Either one 12-pin or two 5-pin locks may be used (Type 3 and Type 5 magazines only require one 5-pin lock). Key numbers shall be removed from the locks. Padlocks to be enclosed by a hooded metal type enclosure 1/4-inch thick steel. Hooded enclosure must be constructed to restrict forcible entry from pry bars, hacksaws, and bolt cutters;

2. two mortise locks;

3. combination of a mortise lock or a hooded padlock;

4. mortise lock that requires two keys to open; or

5. three-point lock or equivalent-type lock that secures the door to the frame at more than one point;

6. doors that are secured by at least two substantial internal bolts or bars do not require additional locking devices on the exterior.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of State Police, 1974, amended and promulgated LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:105 (January 1998), amended by the Department of Public Safety and Corrections, Office of State Police, LR 26:91 (January 2000), LR 34:1037 (June 2008), LR 34:2675 (December 2008).

### **§1517. Storage Inventory**

A. Manufacturers and dealer-distributors must keep accurate accounts of all inventories and sales of explosives. Invoices, sales tickets, or explosive bills of sale that are delivered to the purchaser shall bear the name of the manufacturer or dealer-distributor, the name of the user, the name of the purchaser, the address of the purchaser, the user's license number, date of sale, identification of the type

of explosives sold, quantity sold, date-shift-code, and the use for which the explosives are purchased.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 34:2676 (December 2008).

### **§1531. General Requirements**

A. The handling of explosives shall be performed only by a person holding a valid and subsisting license to use explosives, provided such person is at least 21 years of age.

B. ...

C. If the employment of any licensed individual terminates, the company shall immediately notify the Office of the Deputy Secretary of Public Safety Services, Explosive Control Unit. The individual's original paper license and photo license will be retained by the company and returned to the Office of the Deputy Secretary of Public Safety Services, Explosive Control Unit, within three days. The company shall retain a copy of the terminated individual's paper license.

D. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of State Police, 1974, amended and promulgated LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:106 (January 1998), amended by the Department of Public Safety and Corrections, Office of State Police, LR 26:91 (January 2000), LR 34:1038 (June 2008), LR 34:2676 (December 2008).

### **§1541. Training**

A. All licensees must be trained in the areas outlined herein. Explosive blaster, user, manufacturer and or dealer distributor training shall include a minimum of 16 hours utilizing any combination of classroom and hands on practice in the use of explosives defined in §1541.D. Explosive handler training shall consist of 8 hours of classroom training defined in §1541.E.

1. All blaster, user, manufacturer and or dealer distributor licensees shall attend a minimum of 8 hours of annual refresher training utilizing any combination of classroom or hands on practice in the use of explosives to include updates in §1541.D.6 and explosive safety procedures.

2. All explosive handler licensees shall attend a minimum of 8 hours of annual refresher training to include topics covered in §1541.E.2 and §1541.E.3.

B. Training records required in §1541.B.1 below must be maintained at the licensee's local office.

1. All training (initial and refresher) shall be documented on a form or certificate to include location, subject, date of instruction, and to include the instructor's signature, Louisiana Explosives' License Number and Bureau of Alcohol, Tobacco, Firearms and Explosives' License Number. The applicant shall submit the initial

16 hour training or 8 hour training documentation at the time of application for an explosives license.

2. In addition to §1541.B.1 above, the training provider shall also document training by a written examination. These training records shall be retained by the training provider.

C. Course instructor shall meet criteria based on knowledge, experience, and training in the field of explosives being taught. Course instructors shall possess a current Louisiana Explosives' License in one of the following classes: blaster, user, manufacturer and or dealer distributor. In addition, Instructors shall also possess a Bureau of Alcohol, Tobacco, Firearms and Explosives' License (User or User Limited) relating to the field of instruction.

D. Explosive Blaster, User, Manufacturer and or Dealer Distributor Course Topics (16 Hours)

1. Introduction to Explosives
    - a. Types of Explosives
    - b. Characteristics
    - c. Explosive Effects
  2. Explosive Safety
    - a. Physical and Environmental Hazards
    - b. Misfire Procedures
    - c. Industry Specific Safety Procedures
  3. Explosive Operations Planning
    - a. Site Preparation and Considerations
    - b. Industry Specifications
  4. Explosive Firing Systems
    - a. Electric Firing
    - b. Non-Electric Firing
    - c. Shock Tube Firing
    - d. Priming Procedures
    - e. Blasting Accessories
    - f. Industry Specific Systems
  5. Industrial Applications
  6. Applicable Regulations Regarding Use, Transportation, Storage, and Disposal of Explosives
    - a. OSHA/MSHA Requirements
    - b. BATFE Requirements
    - c. DOT Requirements
    - d. EPA Requirements
    - e. State and Local Requirements
- E. Explosive Handler Course Topics (8) hours
1. Introduction to Explosives
    - a. Types of Explosives
    - b. Characteristics of Explosives
    - c. Explosive Effects
  2. Explosive Safety
    - a. Physical and Environmental Hazards
    - b. Industry Specific Safety Procedures
  3. Explosive Rules and Regulations
    - a. State and Local Requirements
    - b. BATFE Requirements
    - c. OSHA/MSHA Requirements
    - d. EPA Requirements
    - e. Explosive Handler License Requirements and Restrictions
    - f. Transportation of Explosives
    - g. Storage of Explosives
    - h. Explosive Magazine Inventory

F. Training required under this Section is effective August 15, 2008.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of State Police, 1974, amended and promulgated LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:106 (January 1998), amended by the Department of Public Safety and Corrections, Office of State Police, LR 34:2676 (December 2008).

#### §1543. Drug Testing Requirements

A. - C. ...

D. All holders of Louisiana explosive licenses shall be drug screened annually. Annual testing shall meet the same testing standards as tests required by Paragraph §1543.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of State Police, at the Office of State Police, 1974, amended and promulgated LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:106 (January 1998), amended by the Department of Public Safety and Corrections, Office of State Police, LR 34:2677 (December 2008).

#### Subchapter B. Appendices

##### §1551. Appendix D—Drawings 1-8, Type 1 Magazine Construction Guidelines

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), repealed by the Department of Public Safety and Corrections, Office of State Police, LR 34:2677 (December 2008).

Jill Boudreaux  
Undersecretary

0812#002

#### RULE

##### Department of Social Services Office of Family Support

FITAP/KCSP—Recovery of Overpayments  
(LAC 67:III.1503 and 5383)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, amended the Louisiana Administrative Code at Title 67, Part III, Subpart 2, Family Independence Temporary Assistance Program (FITAP) and Subpart 13, Kinship Care Subsidy Program (KCSP). The Rule is pursuant to the authority of Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant.

Language was amended regarding overpayments to allow for the recovery of ineligible FITAP and KCSP benefits paid as a result of administrative errors when those ineligible benefits exceed \$250. Current language allows for the recovery of ineligible FITAP and KCSP benefits paid as a result of inadvertent household errors that exceed \$250.

Amendment of these Sections is necessary to align the policies for these two types of errors.

#### **Title 67**

### **SOCIAL SERVICES**

#### **Part III. Family Support**

#### **Subpart 2. Family Independence Temporary Assistance Program (FITAP)**

#### **Chapter 15. General Program Administration**

#### **Subchapter B. Recovery**

#### **§1503. Recovery of Overpayments**

A. All FITAP overpayments shall be subject to collection either by recoupment or recovery with the exception of inadvertent household error claims and administrative error claims of \$250 or less.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), amended by Department of Social Services, Office of Family Support, LR 24:353 (February 1998), LR 27:428 (March 2001), LR 34:2678 (December 2008).

#### **Subpart 13. Kinship Care Subsidy Program (KCSP)**

#### **Chapter 53. Application, Eligibility, and Furnishing Assistance**

#### **Subchapter C. Recovery**

#### **§5383. Recovery of Overpayments**

A. All KCSP overpayments shall be subject to collection either by recoupment or recovery with the exception of inadvertent household error claims and administrative error claims of \$250 or less.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), amended LR: 34:2678 (December 2008).

Kristy H. Nichols  
Secretary

0812#045

### **RULE**

#### **Department of Social Services Office of Family Support**

#### **FITAP/Food Stamps—Resource Exclusions (LAC 67:III.1229, 1235, 1947 and 1949)**

The Department of Social Services, Office of Family Support, amended the Louisiana Administrative Code at Title 67, Part III, Subpart 2, Family Independence Temporary Assistance Program (FITAP), and Subpart 3, Food Stamp Program.

Pursuant to the goal of Temporary Assistance for Needy Families (TANF) to end the dependence of needy parents on government benefits, the agency will no longer count the value of any liquid or non-liquid resources when determining eligibility for FITAP. Current policy discourages needy families from acquiring assets and thus limits or hinders their opportunity to move out of poverty toward self-sufficiency. The elimination of resource limits and countable resources in FITAP will allow needy families to embark upon savings programs and to acquire assets which will enable them to move toward self-sufficiency.

Language is being removed from §1229.F and §1235 that will eliminate the counting of any resources, assets, or possessions that a household can convert to cash to meet its needs.

The Farm Security and Rural Investment Act of 2002 (P.L. 107-171) allows states to exclude from Food Stamp Program eligibility requirements certain types of resources that the state does not count for TANF. Whereas the agency is removing language to allow the exclusion of all resources for FITAP in order to assist needy families to move out of poverty, language is also being changed for the Food Stamp Program in §§1947 and 1949 to exclude from countable resources all resources that can be excluded in accordance with federal law and regulations.

#### **Title 67**

### **SOCIAL SERVICES**

#### **Part III. Family Support**

#### **Subpart 2. Family Independence Temporary Assistance Program (FITAP)**

#### **Chapter 12. Application, Eligibility and Furnishing Assistance**

#### **Subchapter B. Conditions of Eligibility**

#### **§1229. Income**

A.-E. ...

F. Income of Alien Sponsors

1. In determining the eligibility and benefits of an alien with an affidavit of support executed under 213A of the INA (8 U.S.C. 1183a), the income of the sponsor and the sponsor's spouse shall be considered except as follows in §1229.F.a-b. This attribution shall continue for the period prescribed in 8 U.S.C. 1631.

a. Indigence exception: if an alien has been determined indigent, as provided in 8 U.S.C. 1631(e), the amount of income of the sponsor or the sponsor's spouse which shall be attributed to the alien shall not exceed the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date.

b. Special rule for battered spouse and child: if an alien meets the requirements of the special rule for a battered spouse or child, as provided in 8 U.S.C. 1631(f), and subject to the limitations provided therein, the provisions of §1229.F.1 shall not apply during a 12-month period. After a 12-month period, the batterer's income shall not be considered if the alien demonstrates that the battery and cruelty as defined in 8 U.S.C. 1631(f)(1) has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty has, in the department's opinion, a substantial connection to the need for benefits.

F.2.-G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2, P.L. 108-447, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:1342 (June 2000), LR 26:2831 (December 2000), LR 31:2956 (November 2005), LR 32:1616 (September 2006), LR 32:1912 (October 2006), LR 34:2678 (December 2008).

#### **§1235. Resources**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2, P.L. 106-387, Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999), amended LR 27:736 (May 2001), LR 27:866 (June 2001), LR 28:1031 (May 2002), LR 29:45 (January 2003), LR 32:645 (April 2006), repealed LR 34:2678 (December 2008).

### Subpart 3. Food Stamp Program

## Chapter 19. Certification of Eligible Households

### Subchapter H. Resource Eligibility Standards

#### §1947. Resources

A. The following resources shall be countable resources:

1. cash on hand;
2. money in checking or savings accounts;
3. certificates of deposit;
4. stocks; and
5. bonds.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.8, P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 21:187 (February 1995), LR 23:82 (January 1997), 27:867 (June 2001), LR 34:2679 (December 2008).

#### §1949. Exclusions from Resources

A. All resources other than those listed in §1947 of this Title shall be excluded from countable resources.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.8, P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:656 (November 1987), amended by the Department of Social Services, Office of Family Support, LR 18:1267 (November 1992), LR 21:187 (February 1995), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 28:1031 (May 2002), LR 29:606 (April 2003), LR 32:646 (April 2006), LR 34:2679 (December 2008).

Kristy H. Nichols  
Secretary

0812#046

### RULE

#### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Domesticated Aquatic Organisms (LAC 76:VII.905)

The Department of Wildlife and Fisheries and Wildlife and Fisheries Commission hereby establishes a list of approved "domesticated aquatic organisms" for aquaculture.

#### Title 76

### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

##### Chapter 9. Aquaculture

#### §905. Domesticated Aquatic Organisms

A. The following is a list of "domesticated aquatic organisms" approved for use in aquaculture:

1. shadow bass (*Ambloplites ariommus*) not exceeding a maximum total length of 3 inches;
2. white bass (*Morone chrysops*) not exceeding a maximum total length of 3 inches;

3. yellow bass (*Morone mississippiensis*) not exceeding a maximum total length of 3 inches;

4. crappie (*Pomoxis spp.*) not exceeding a maximum total length of 3 inches;

5. bream (*Lepomis spp.*) not exceeding a maximum total length of 3 inches;

6. spotted bass (*Micropterus punctulatus*) not exceeding a maximum total length of 10 inches;

7. striped bass (*Morone saxatilis*) not exceeding a maximum total length of 10 inches;

8. largemouth bass (*Micropterus salmoides*) of any size;

9. hybrid striped bass (*Morone saxatilis x Morone chrysops*) or (*Morone saxatilis x Morone mississippiensis*) of any size;

10. coppernose bluegill (*Lepomis macrochirus purpureus*) of any size;

11. hybrid bream limited to a bluegill (*Lepomis macrochirus*) and green sunfish (*L. cyanellus*) cross or a redear sunfish (*L. microlophus*) and bluegill (*L. macrochirus*) cross of any size;

12. carp (*Cyprinus carpio*) of any size;

13. freshwater drum (*Aplodinotus grunniens*) of any size;

14. buffaloes (*Ictiobus spp.*) of any size;

15. golden shiner (*Notemigonus crysoleucas*) of any size;

16. fathead minnow (*Pimephales promelas*) of any size;

17. mosquito fish (*Gambusia affinis*) of any size;

18. Red drum (*Sciaenops ocellatus*)

19. triploid grass carp (*Ctenopharyngodon idella*); See LAC 76:VII.901;

20. tilapia (*Oreochromis aurea*, *O. niloticus*, *O. mossambicus* and *O. urolepis hornorum*); See LAC 76:VII.903.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327.A(2) and R.S. 56.411.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR. 34:2679 (December 2008).

Robert J. Barham  
Secretary

0812#015

### RULE

#### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Cargo Vessels (LAC 76:VII.523)

The Wildlife and Fisheries Commission does hereby establish regulations for an Oyster Cargo Vessel Permit. (LAC 76:VII.523)

#### Title 76

### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

##### Chapter 5. Oysters

#### §523. Oyster Cargo Vessels

A. Policy. The Oyster Cargo Vessel (OCV) permit is intended to assist oyster harvesters with meeting refrigeration requirements as set forth in the Louisiana

Department of Health and Hospitals Shellfish Sanitation Code (Title 51) and to facilitate harvest and transport of shell-stock harvested from Louisiana water bottoms. It is also intended to provide an effective method of regulating the transfer of oysters from harvest vessels to cargo vessels which will land or off-load oysters. Violation of any provision of the rules, regulations or statutes concerning the oyster cargo vessel permit by the permittee, oyster harvester or vessel owner while operating under the OCV permit shall result in suspension and/or revocation of the permit in addition to any citations resulting from activities.

**B. Permit Procedures**

1. Permits shall be available from the Department of Wildlife and Fisheries (LDWF) licensing office in Baton Rouge at any time during regular business hours. The OCV permit may be purchased at any time of the year for the current license year and from November 15 for the immediately following year, and shall be valid for up to one calendar year beginning January 1 and expiring on December 31 of the same calendar year. The annual fee per permit shall be \$250 for residents and \$1105 for nonresidents.

2. Permits shall be issued in the name of the vessel owner and shall have the vessel identified on the license.

3. Any designee obtaining the permit on the vessel owners behalf must present to LDWF licensing a signed, notarized document from the vessel owner, which includes the vessel owner's name, address, Social Security number, date of birth and driver's license number, and registration number or USCG document number of the vessel to be permitted, giving permission for the designee to obtain the permit. If the owner of such vessel is a corporation, the Louisiana Secretary of State's charter/organization identification number shall be required and the permission document shall be signed by a registered agent or director of the corporation as identified by the Louisiana Secretary of State's office. Permits shall only be issued to validly licensed vessels.

C. Operations. Permits are non-transferable and only the vessel listed on the permit can be used with the permit and only one vessel is allowed per permit. The vessel must maintain the original permit on board at all times while operating under the permit, including times of fishing and transportation. The permitted vessel shall display signs, visible from either side of the vessel and from the air, with the words "OCV Permit" and the permit number shall be placed on these signs in letters at least 12 inches in height.

1. All vessels operating as oyster cargo vessels under this permit shall be required to meet Louisiana Department of Health and Hospitals Shellfish Sanitation Code requirements.

D. Records, Reporting. The applicant, vessel owner or a designee on board a legally permitted oyster cargo vessel shall only transport oysters taken by the other legally licensed commercial oyster harvesters on behalf of a certified dealer legally licensed in Louisiana and shall be required (on behalf of a certified dealer only) to complete all required records pertaining to oysters at the point oysters are transferred to the receiving vessel. No person shall transfer

oysters to any commercial vessel for purposes of refrigeration, sale or transport unless the receiving vessel has an oyster cargo vessel permit as described in R.S. 56:422(E).

E. Landing. All oysters taken from the reefs of this state and transported by a legally permitted oyster cargo vessel must be landed in Louisiana in accordance with R.S. 56:424G(1). No person operating under an oyster cargo vessel permit shall land any oysters taken by another harvester outside the jurisdiction of Louisiana.

F. Tagging. All oysters transferred to an oyster cargo vessel must be properly sacked or containerized and tagged in accordance with the provisions of R.S. 56:449 and must meet all Louisiana Department of Health and Hospital Shellfish Sanitation Administrative Code requirements that relate to the tagging of shellfish prior to being placed on board any oyster cargo vessel.

G. Monitoring. The vessel utilized under this permit shall have on-board and in working order an electronic vessel monitoring system as required by R.S. 56:424, and as provided in LAC 76:VII.371. The owner or operator of any vessel issued an oyster cargo vessel permit, must have an operable vessel monitoring system (VMS) installed on-board that meets the requirements of LAC 76:VII.371. The VMS unit must be certified, installed on board and operable, and the department notified of the installation, before the vessel may begin receiving and transporting oysters.

H. Violation. Failure to abide by any regulation set forth regarding permitted oyster cargo vessels shall be deemed a violation of this Section. All oysters placed on-board from another vessel, possessed, or transported by an oyster vessel in violation shall be considered illegally taken, possessed, or transported. All persons aboard vessels with oysters placed on-board from another vessel without complying with the requirements herein shall be in violation of the oyster cargo vessel regulations. The provisions of this Section do not exempt any person from any other laws, rules, regulations and license requirements for this or other states as they pertain to the transfer or shipment of shellfish. Violations of this Section shall constitute a class 4 violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:422(E).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:2679 (December 2008).

Robert J. Barham  
Secretary

0812#014

**RULE**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

Oyster Seed Ground Vessel Permit (LAC 76:VII.525)

The Wildlife and Fisheries Commission does hereby promulgate rules and regulations relative to the Oyster Seed Ground Vessel Permit. Authority to establish such rules and regulations is vested in the Wildlife and Fisheries Commission by R.S. 36:610(L), R.S. 56:6, R.S. 56:433.1.

**Title 76  
WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 5. Oyster**

**§525. Commercial Oyster Seed Ground Vessel Permit**

A. Policy. For license year beginning 2009 any oysters taken for commercial purposes from the public natural reefs or the oyster seed grounds or reservations, except those in Calcasieu Lake or Sabine Lake, shall be placed only on a vessel which has an oyster seed ground permit issued exclusively by the department. The permit does not grant any rights to the oyster resource or any rights to harvest oysters from the waters of the state and shall not be sold, exchanged, or otherwise transferred. No new applications for vessel permits shall be accepted after December 31, 2009. The permit shall be valid for up to one calendar year beginning on January 1 and ending on December 31 of the same year, but may be made available for purchase beginning on November 15 for the immediately following license year. The cost per permit shall be \$15 for residents and \$60 for non-residents.

B. Eligibility. Only vessel owners meeting the eligibility requirements outlined in R.S. 56:433.1 shall be issued a permit. Permit applicants must provide to the Licensing Section of the department proof of vessel ownership by submitting the current certificate of registration or certificate of documentation with the United States Coast Guard to the Licensing Section of the department.

C. Proof of Participation: In addition to the requirement in Subsection B herein, applicants must meet either Paragraph 1, 2 or 3 below to be issued a permit:

1. applicant owned a vessel that was properly licensed and registered in applicant's name during a time in which department trip ticket records demonstrate that the vessel had commercial oyster landings in the state of Louisiana between January 1, 2004 and May 31, 2007;

2. for applicants who purchased or constructed a vessel and licensed that vessel for commercial fishing in the state of Louisiana between January 1, 2004 and April 30, 2008, and department trip ticket records demonstrate that oysters were landed on that vessel in the state of Louisiana between the time of the vessel's purchase or construction and July 1, 2008;

3. for applicants with a newly constructed vessel or a vessel under construction, the vessel has not been previously registered in any state or foreign country or issued a USCG documentation number, and the applicant presents to the Licensing Section of the department:

a. a signed, dated, and notarized verification from a marine surveyor qualified and accredited by NAMS (National Society of Marine Surveyors) or SAMS (Society of Accredited Marine Surveyors) that construction of the vessel for which the permit will be issued was at least 50 percent complete by July 1, 2008, or

b. a signed, dated, and notarized verification from the corporation that built the vessel that construction of the vessel for which the permit will be issued was at least 50 percent complete by July 1, 2008.

D. Applications. Applications for the initial permit shall only be accepted by the department from such persons who meet eligibility requirements as outlined in R.S. 56:433.1 and this rule. Applications shall only be made on forms supplied by the department. No new applications for vessel permits shall be accepted after December 31, 2009. Only permit holders who held a valid permit during the prior year shall be eligible to purchase a permit for the following license year.

E. Operations

1. Permits are non-transferable and only the vessel listed on the permit can be used with the permit and only one vessel is allowed per permit. The original valid permit must be onboard at all times while operating under the permit.

2. Permits cannot be assigned or transferred or used by any other vessel than the one to which permit was issued.

3. Vessels engaged in an activity for which this permit is required must have onboard the vessel the valid original permit and shall show the permit upon demand to a duly authorized agent of the department.

F. Appeals. An applicant may appeal a decision of the department denying a permit to the Oyster Seed Ground Vessel Permit Appeals Board. An appeal must be received by the department no later than 30 days after the date of denial by the department on a form prescribed by the department. The appeal must include a statement as to why the applicant believes the department incorrectly determined the applicant ineligible for the permit or why the applicant is entitled to a permit based on a determination of hardship. The appeal shall include any documentation in support thereof.

1. The board's decision shall be limited to a determination of whether the department incorrectly determined that the applicant was ineligible for a permit or a determination that the applicant should be issued a permit based on determination of hardship.

2. The board shall review all information provided and after deliberation determine whether an applicant should be issued a permit. A decision to issue a permit shall be upon favorable vote of the majority of the appointed members of the board. The board shall issue a written decision which clearly states the rationale for the decision.

3. The board shall make a decision within 60 days of the date of appeal.

G. Enforcement. The taking of oysters for commercial purposes from public natural reefs or oyster seed grounds or reservations without an oyster seed ground permit is a Class 2 violation and upon conviction will require use of a vessel monitoring system for that vessel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:610(L), R.S. 56:6 and R.S. 56:433.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:2681 (December 2008).

Robert J. Barham  
Secretary

0812#016

**RULE**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Reef Fish—Harvest Regulations (LAC 76:VII.335)**

The Wildlife and Fisheries Commission does hereby amend a Rule (LAC 76:VII.335) modifying size limits for gray triggerfish and recreational size limits for greater amberjack, and implementing gear use restrictions in waters of the Federal EEZ while fishing for reef fish, which are part of the existing Rule for daily take, possession, and size limits for reef fishes set by the commission. Authority of adoption of this Rule is included in R.S. 56:6(25)(a), R.S. 56:320.2, R.S. 56:326.1 and R.S. 56:326.3.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishery**

**§335. Reef Fish—Harvest Regulations**

A. - B.5. ...

C. Charter Vessels and Headboats

1. - 2. ...

3. Captain and crew members shall not harvest or possess greater amberjack, red snapper, or grouper of any species while operating as charter vessels and headboats as defined in Federal Regulations 50 CFR Part 622.2. Their bag limit is zero for all of these species.

D. Red Snapper

1. - 7. ...

E. Recreational and commercial minimum and maximum size limits, unless otherwise noted.

Species	Minimum Size Limits
1. Red Snapper	16 inches total length (recreational) 13 inches total length (commercial)
2. Gray, yellowtail, cubera, dog, mahogany snapper, and schoolmaster	12 inches total length
3. Lane snapper	8 inches total length
4. Mutton snapper	16 inches total length
5. Vermilion snapper	10 inches total length
6. Red and yellowfin grouper	20 inches total length
7. Gag and black grouper	22 inches total length (recreational) 24 inches total length (commercial)
8. Scamp	16 inches total length
9. Greater amberjack	30 inches fork length (recreational) 36 inches fork length (commercial)
10. Black seabass	8 inches total length
11. Hogfish	12 inches fork length
12. Banded rudderfish and lesser amberjack	14 inches fork length (minimum size); 22 inches fork length (maximum size)
13. Gray triggerfish	14 inches fork length

F. - I. ...

J.1. Devices

a. Circle hook means a fishing hook designed and manufactured so that the point is turned perpendicularly back to the shank to form a generally circular or oval, shape.

b. Dehooking device means a device intended to remove a hook embedded in a fish to release the fish with minimum damage.

c. Venting device means a device intended to deflate the swim bladder of a fish to release the fish with minimum damage.

2. For a person on board a vessel to fish for or possess Gulf reef fish in the Gulf EEZ, the vessel must possess on board and such person must use the gear as specified below.

a. Non-Stainless Steel Circle Hooks. Non-stainless steel circle hooks are required when fishing with natural baits for reef fish.

b. Dehooking Device. At least one dehooking device is required and must be used to remove hooks embedded in Gulf reef fish with minimum damage. The hook removal device must be constructed to allow the hook to be secured and the barb shielded without re-engaging during the removal process. The dehooking end must be blunt, and all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the Gulf reef fish fishery.

c. Venting Tool. At least one venting tool is required and must be used to deflate the swim bladders of Gulf reef fish to release the fish with minimum damage. This tool must be a sharpened, hollow instrument, such as a hypodermic syringe with the plunger removed, or a 16-gauge needle fixed to a hollow wooden dowel. A tool such as a knife or an ice-pick may not be used. The venting tool must be inserted into the fish at a 45-degree angle approximately 1 to 2 inches (2.54 to 5.08 cm) from the base of the pectoral fin. The tool must be inserted just deep enough to release the gases, so that the fish may be released with minimum damage.

K. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15, for reef fishes while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange reef fishes within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:320.2(C), R.S. 56:326.1, and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138, 1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005), LR 33:1156 (June 2007), repromulgated LR 33:1397 (July 2007), amended LR 34:2209 (October, 2008), LR 34:2682 (December 2008).

Robert J. Barham  
Secretary

0812#013

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture and Forestry Horticulture Commission

Landscape Horticulturist  
(LAC 7:XXIX.105, 107, 109, 113, 115 and 117)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with the enabling statute, R.S. 3:3801, the Horticulture Commission proposes to amend regulations to consolidate the regulated professions of horticulturist and landscape contractor into one profession called Landscape Horticulturist. The legislature, by *Acts 2008, No. 63* of the 2008 regular session, combined the two professions into the landscape horticulturist profession. The amendments incorporate the consolidation by the legislature into existing regulations.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXIX. Horticulture Commission

#### Chapter 1. Horticulture

#### §105. Qualifications for Examination and Licensure or Permitting

A. ...

B. All applicants for the landscape architect examination must meet one of the following qualifications:

1. - 1.f. ...

g. and has completed an equivalent of one year internship under the direct supervision of a licensed landscape architect, landscape horticulturist, engineer, architect, or a licensed professional with a design or contracting firm;

2. has completed the equivalent of six years of practical experience under the direct supervision of a licensed landscape architect, landscape horticulturist, or environmental designer. Must present a minimum of six examples of work in at least three of the following areas:

B.2.a. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, 3:3807, and 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 20:639 (June 1994), LR 26:2240 (October 2000), LR 35:

#### §107. Application for Examination and Licensure or Permitting

A. - C.2. ...

D. Arborist, Landscape Horticulturist, Landscape Irrigation Contractor, Utility Arborist, Wholesale Florist

1. Applicants who desire to take the examination for arborist, landscape horticulturist, landscape irrigation contractor, utility arborist, or wholesale florist may apply at any time, in person or by writing, to the commission's state office in Baton Rouge or to any district office of the Department of Agriculture and Forestry. Applicants who

apply in person, will be allowed, whenever feasible, to complete the written application form at the initial visit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, 3:3807, and 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 18:249 (March 1992), LR 20:639 (June 1994), LR 23:854 (July 1997), LR 29:1460 (August 2003), LR 31:1053 (May 2005), LR 35:

#### §109. Examination Fees

A. - B.2. ...

C. Arborist, Landscape Horticulturist, Landscape Irrigation Contractor, Utility Arborist, Wholesale Florist

1. The fee for examination or re-examination for licensure as an arborist, landscape horticulturist, landscape irrigation contractor, utility arborist, or wholesale florist shall be \$50.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and 3:3806.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982) amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 18:249 (March 1992), LR 20:640 (June 1994), LR 29:2297 (November 2003), LR 31:1053 (May 2005), LR 35:

#### §113. Examination Schedule

A. - B.3. ...

C. Arborist, Landscape Horticulturist, Landscape Irrigation Contractor, Utility Arborist, Wholesale Florist. Examinations for licensure as an arborist, landscape horticulturist, landscape irrigation contractor, utility arborist, or wholesale florist will be administered in the commission's state office in Baton Rouge and in district offices of the Department of Agriculture and Forestry upon request. Interested applicants may apply, in person or by writing, at the state office or the most convenient district office. A date for the examination will be established for each applicant.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and 3:3807.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Horticulture Commission, LR 8:185 (April 1982), amended LR 14:8 (January 1988), LR 18:250 (March 1992), LR 20:640 (June 1994), LR 31:1053 (May 2005), LR 35:

#### §115. General Requirements for All Licensees or Permittee

A. - D.4. ...

E. Licensees must display at least one of their license numbers on both sides of all vehicles that have advertisement or signs and are used for business purposes with lettering at least 2 inches high and legible at the distance of 25 feet. The number to be displayed shall be the last four digits of the license number preceded by two letters indicating the type of license as follows.

AR—Arborist

LH—Landscape Horticulturist

LA—Landscape Architect

IC—Landscape Irrigation Contractor  
RF—Retail Florist  
UA—Utility Arborist  
WF—Wholesale Florist

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 20:640 (June 1994), LR 21:548 (June 1995), LR 31:1053 (May 2005), LR 35:

### **§117. Professional and Occupational Standards and Requirements**

A. - C.3. ...

D. Landscape Horticulturist

1. Any nursery stock used in landscaping, leased, or sold, or offered for use in landscaping, lease, or sale, shall be of high quality and free from injurious insects, diseases, and other pests. Nursery stock which is leased must be maintained in high quality and free from injurious insects, diseases, and other pests.

2. All plant beds must be properly prepared and must allow for proper drainage.

3. All recommendations and maintenance and planting practices must incorporate sound horticultural practices.

4. All sod installed, sold, or recommended shall be classified as provided in §115.D.

5. Recommendations and maintenance and planting practices shall meet the standards outlined in *The Louisiana Manual for the Environmental Horticulture Industry* published by the Louisiana Nursery and Landscape Association.

6. Landscape horticulturists who prepare drawings to indicate the planting and location and arrangement of plant materials by that landscape horticulturist shall place his name, the words "Landscape Horticulturist," and his license number on each drawing prepared by him. Drawings prepared by a landscape horticulturist may be used only by that landscape horticulturist and no one else in connection with the submission of a bid proposal.

7. Licensees must display their license at all times in a location accessible to the general public or any representative of the commission.

E. - E.8. ...

9. Recommendations and pruning practices shall meet the standards outlined in the *Arborists' Certification Study Guide* published by the International Society of Arboriculture.

F. Repealed

G. - J.5.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, and 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185, (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:1832 (November 2001), LR 31:1054 (May 2005), LR 32:78 (January 2006), LR 32:1010 (June 2006), LR 33:1854 (September 2007), LR 35:

### **Family Impact Statement**

The impact of the proposed action regarding the rules and regulations set out in the Notice of Intent on family formation, stability, and autonomy has been considered. It is estimated that the proposed action will have no significant effect on the (1) stability of the family, (2) authority and rights of parents regarding the education and supervision of their children, (3) functioning of the family, (4) family earnings and family budget, (5) behavior and personal responsibility of children, or (6) ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments, data, opinions, and arguments, whether for, against, or regarding these proposed regulations. Written submissions are to be directed to Craig Roussel, Director of the Horticulture Commission, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4 p.m. on January 26, 2009. No preamble regarding these proposed regulations is available.

Mike Strain, DVM  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Landscape Horticulturist**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is estimated that there will be no significant implementation costs or savings to any such unit.

The Horticulture Commission proposes to amend regulations to consolidate the regulated professions of horticulturist and landscape contractor into one profession called Landscape Horticulturist. Act 63 the 2008 regular legislative session, combined the two professions into the landscape horticulturist profession. The amendments incorporate the consolidation by the legislature into existing regulations.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is estimated that there will be no significant effect on the revenue collections of any such unit.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

It is estimated that there will be no significant effect on the costs or economic benefits of directly affected persons or non-governmental groups. The rule merely codifies a legislative change, which consolidated the regulation of these two professions. Existing license holders from either profession will be issued a landscape horticulturist license in place of an existing license upon payment of a renewal fee.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is estimated that there will be no significant effect on competition or employment.

Craig Gannuch  
Assistant Commissioner  
0812#036

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Agriculture and Forestry Horticulture Commission

#### Retail Florist Examination (LAC 7:XXIX.107 and 111)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with the enabling statute, R.S. 3:3801, the Horticulture Commission proposes to amend regulations to change the requirements for passing the retail florist examination from a required score of 70 on both the written and design segments of the examination to an average score of 70 percent between the written segment and the design segment of the examination. The proposed action is being taken to assist the Horticulture Commission in the regulation of the retail florist profession.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXIX. Horticulture Commission

#### Chapter 1. Horticulture

#### §107. Application for Examination and Licensure or Permitting

A. ...

B. Retail Florist

1. Applicants who desire to take the examination for retail florist must file the completed application, together with the fee required under §109.A, at the commission's office in Baton Rouge. The application must be postmarked or received no later than 45 days preceding the scheduled examination date.

2. Any applicant for licensure as a retail florist who successfully completes either the written phase or one or more sections of the design phase of the examination but does not successfully complete both phases of the examination with an average passing score between the written and design phases will not be required to submit to re-examination in the phase which was successfully completed. The applicant may apply to retake only those phases or sections of the examination which was not successfully completed.

3. The examination for licensure as a retail florist must be successfully completed within three years after successful completion of one of the two phases of the examination. If three years or more have elapsed since the applicant successfully completed a phase of the examination, the applicant must apply, and pay the fee required under §109.A.1, to retake the entire examination.

C. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, 3:3807, and 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 18:249 (March 1992), LR 20:639 (June 1994), LR 23:854 (July 1997), LR 29:1460 (August 2003), LR 31:1053 (May 2005), LR 35:

#### §111. Minimum Examination Performance Levels Required

A. The performance level for satisfactory completion of all examinations for licensure, except the examination for landscape architect and retail florist, shall be a minimum of 70 percent.

B. ...

C. The minimum performance level for satisfactory completion of both the written and design phases of the retail florist exam shall be an averaged score of 70 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and 3:3807.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Horticulture Commission, LR 8:184 (April 1982), amended LR 20:153 (February 1994), LR 35:

#### Family Impact Statement

The impact of the proposed action regarding the rules and regulations set out in the Notice of Intent on family formation, stability, and autonomy has been considered. It is estimated that the proposed action will have no significant effect on the (1) stability of the family, (2) authority and rights of parents regarding the education and supervision of their children, (3) functioning of the family, (4) family earnings and family budget, (5) behavior and personal responsibility of children, or (6) ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments, data, opinions, and arguments, whether for, against, or regarding these proposed regulations. Written submissions are to be directed to Craig Roussel, Director of the Horticulture Commission, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4 p.m. on January 26, 2009. No preamble regarding these proposed regulations is available.

Mike Strain, DVM  
Commissioner

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Retail Florist Examination

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that there will be no significant implementation costs or savings to any such unit. To the extent that the test requirement modifications in the proposed administrative rules allow more individuals to pass the florist examination on the first try, the Horticulture Commission could likely experience reduced expenditures associated with florist examination re-takes.

The Horticulture Commission proposes to amend regulations to change the requirements for passing the retail florist examination from a required score of 70 on both the written and design segments of the examination to an average score of 70 percent between the written segment and the design segment of the examination.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that there will be no significant effect on the revenue collections of any such unit. To the extent that the test requirement modifications in the proposed administrative rules allow more individuals to pass the florist examination on the first try, the Horticulture Commission could likely experience minor reduced revenues associated with examination re-takes. The current examination re-take fee is \$50 for the written portion and \$150 for the design portion.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that there will be no significant effect on the costs or economic benefits of directly affected persons or nongovernmental groups. To the extent that the test requirement modifications in the proposed administrative rules allow more individuals to pass the florist examination on the first try, there could be additional individuals in Louisiana as certified florists and in the florist industry, which could marginally increase, the overall competition in Louisiana's florist industry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that there will be no significant effect on competition or employment.

Craig Gannuch  
Assistant Commissioner  
0812#037

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Agriculture and Forestry  
Office of Agriculture and Environmental Sciences**

Pesticides—Examinations, Restriction,  
Water and Fish Tissue Sampling  
(LAC 7.XXIII.103, 121, 125, 129, 143, 173, 181, and 205)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with the enabling statutes, R.S. 3:3203, 3:3271, and 3:3306, the Commissioner of Agriculture and Forestry, proposes to adopt regulations regarding pesticides to: add definitions and make other technical changes; provide for failure to pass an examination and cheating on examinations; changes the name of the right-of-way pest control category for commercial applicators; provide a numbering system for subcategories that agricultural consultants may become certified for; repeal a restriction on application of pesticides; repeal the requirement for publication in the *Louisiana Register* of an annual list of pesticides which, upon disposal, are declared by the EPA to be hazardous waste; and change the water monitoring frequency from monthly to quarterly and the fish tissue sampling from annually to on an as needed basis. These amendments are being made to improve the implementation of the provisions of the Louisiana Pesticide Law (R.S. 3:3201 et seq.).

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part XXIII. Pesticides**

**Chapter 1. Advisory Commission on Pesticides**

**Subchapter A. Authority**

**§103. Definitions**

*Application*—the activities directly related to the administering of a pesticide, including activities leading up to the actual administration of the pesticide (pre-application activities), the actual administering of the pesticide (application activities), and those occurring after the administering of the pesticide (post-application activities). Application activities include those such as the actual administering of the pesticide by any method, such as spraying or topical use.

1. Pre-application activities, include those such as: arranging for the application; mixing and loading the pesticide; and necessary preparations for the application of the pesticide, such as employee notification, workers and handlers training, decontamination, use and care of personal protective equipment, emergency information, and heat stress management.

2. Post-application activities include those such as: restricted-entry intervals, responsibilities related to worker training, notification, and decontamination, providing emergency assistance, transporting or storing the pesticides, and disposing of any excess pesticides, spray mix, equipment wash water, pesticide containers, and other materials containing the pesticide.

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EPA—the United States Environmental Protection Agency

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AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3202 and 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:171 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 27:2085 (December 2001), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, Advisory Commission on Pesticides, LR 35:

**Subchapter E. Applicators, Salespersons and  
Agricultural Consultants**

**§121. Examinations of Applicators, Salespersons and  
Agricultural Consultants**

A The minimum score necessary for successful completion of examinations for certifications under these rules and regulations shall be 70 percent.

B. - C. ...

D. Each applicant who fails to receive a passing score on any examination in any category or subcategory shall wait a minimum of 10 days before being eligible for re-examination.

E. ...

F. An applicant who took and did not pass an examination in this state under these standards shall not be permitted to receive certification in the occupation or category for which the examination was taken under a reciprocal agreement with another state.

G. ...

H. An applicant shall be disqualified from completing an examination or taking any other examination administered under these rules and regulations if the applicant is caught or found to be cheating on an examination or using any written materials, electronic devices, or other means during an examination, which have not been authorized or allowed by the director or person administering the examination.

1. Any such applicant shall not be allowed to finish the examination and shall receive a score of zero. If an applicant finished the examination prior to the discovery of the cheating or use of unauthorized written materials, electronic devices, or other means the applicant's examination shall be voided and the applicant shall receive a score of zero.

2. Any applicant who is not allowed under this subsection to finish an examination, or whose examination is voided, or who is disqualified from taking the examination

or any other examination administered under these rules and regulations may appeal the action to the commission.

a. The appeal must be in writing, state the grounds for the appeal, and filed with the director within 30 days of the date of the action complained of.

b. The appeal will be placed on the agenda for the next meeting of the commission and the applicant will be notified of the date and place of the next meeting.

c. The appeal will be heard by the commission, which will make a recommendation to the commissioner. The decision of the commissioner shall be the final administrative decision in the matter.

d. An appeal from the decision of the commissioner shall be in accordance with the Administrative Procedure Act.

e. The action or administrative decision shall become final if no appeal is timely filed at any step in the proceedings or if the action is upheld on appeal.

3. During the pendency of any appeal or during the time limit for the filing of any appeal the applicant shall not be allowed to take any examination administered under these rules and regulations.

4. If the action or administrative decision is not appealed or is upheld on appeal then the applicant shall not be allowed to take or re-take the examination or any other examination administered under these rules and regulations for a period of three years from the examination date without the approval of the commission given at a meeting of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:178 (April 1983), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 15:76 (February 1989), amended LR 28:39 (January 2002), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, Advisory Commission on Pesticides, LR 35:

#### **Subchapter F. Certification**

#### **§125. Certification of Commercial Applicators**

A. - B.2.e.ii. ...

f. Right-of-Way and Industrial Pest Control (Category 6). This category includes commercial applicators using or supervising the use of restricted use pesticides in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way or other similar areas.

B.2.g. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and 3:3242.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:179 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18:953 (September 1992), LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998), LR 28:39 (January 2002), LR 32:794 (May 2006), repromulgated LR 32:1011 (June 2006), amended LR 35:

#### **§129. Certification of Agricultural Consultants**

A. - C. ...

D. Certification of Agricultural Consultants

1. Certification in a category established under this subsection authorizes the agricultural consultant to make recommendations in the areas listed for each category. The categories in this subsection reflect national categories as established by the EPA.

2. Applicants for certification as agricultural consultants shall elect to be examined in one or more of the following categories.

a. Control of Insects, Mites, Nematodes or Other Invertebrates (Category 1)

i. Agricultural Entomology (Subcategory 1a). Making recommendations for the control of pests of agronomic crops, especially cotton, rice, soybeans, sugarcane, vegetables, pasture and forage, and grain crops.

ii. Forest Entomology (Subcategory 1b). Making recommendations for the control of forest pests.

iii. Household, Structural and Industrial Entomology (Subcategory 1c). Making recommendations for the control of household pests, structural pests and industrial pests (such as termites, in stores, warehouse and transportation facilities).

iv. Medical, Veterinary and Public Health Entomology (Subcategory 1d). Making recommendations for the control of arthropods affecting man and animals.

v. Orchard and Nut Tree Entomology (Subcategory 1e). Making recommendations for the control of orchard pests.

vi. Ornamental Entomology (Subcategory 1f). Making recommendations for the control of pests of ornamentals, lawns, turf and shade trees.

vii. Mosquito Control Entomology (Subcategory 1g). Making recommendations for the control of mosquito species.

b. Control of Plant Pathogens (Category 2)

i. Agricultural Plant Pathology (Subcategory 2a). Making recommendations for the control of diseases of agronomic crops, especially sugarcane, cotton, rice, soybeans and home garden plants.

ii. Turf, Ornamental, Shade-tree and Floral Plant Pathology. (Subcategory 2b). Making recommendations for the control of diseases of turf, ornamentals, shade-trees and floral plants. Also includes greenhouse and nursery plant disease control.

iii. Forest Pathology (Subcategory 2c). Making recommendations for the control of diseases of trees in plantations, nurseries and managed or unmanaged forests wherein the principal value lies in the production of wood fiber.

iv. Orchard Pathology (Subcategory 2d). Making recommendations for the control of diseases of wood vines and trees wherein the principal value lies in the production of fruits or nuts.

c. Control of Weeds (Category 3)

i. Agricultural Weed Control (Subcategory 3a). Making recommendations for the control of weeds and grasses in field crops, vegetable crops, pastures and rangeland.

ii. Turf, Ornamental and Shade-Tree Weed Control (Subcategory 3b). Making recommendations for the control of weeds and grasses in ornamentals, turf areas, cemeteries and other similar areas.

iii. Forest Weed Control (Subcategory 3c). Making recommendations for the control of weeds and grasses in forest lands.

iv. Right-of-Way and Industrial Weed Control. (Subcategory 3d). Making recommendations for the control of weeds and grasses in and around industrial and commercial sites.

v. Aquatic Weed Control: (Subcategory 3e). Making recommendations for the control of aquatic weeds and grasses in or on water in non-agricultural settings.

d. Soil Management (Category 4)

i. Agricultural Field Soil Management (Subcategory 4a). Knowledgeable in symptoms of soil and/or tissue nutrient problems; sampling techniques for soil and/or tissue analysis; interpretation of laboratory results; and recommendations for soil and/or tissue amendments.

ii. Agricultural Soil, Water and Tissue Laboratory Analysis (Subcategory 4b). Knowledge of all diagnostic procedures pertaining to the analysis of soil, water and/or tissue samples.

iii. Agricultural Soil Reclamation (Subcategory 4c). Knowledge of techniques, methods, etc., for restoring or attempting to restore soil productivity as a result of physical and/or chemical disturbance or natural causes such as severe erosion or contaminated soils.

iv. Agricultural Water Management. (Subcategory 4d). Knowledge of irrigation scheduling practices and techniques for various enterprises requiring water on a regular or intermittent basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and 3:3246.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:184 (April 1983), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:281 (February 1998), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides LR 28:39 (January 2002), LR 35:

### **Subchapter I. Regulations Governing Application of Pesticides**

#### **§143. Restrictions on Application of Certain Pesticides**

A. - G.2. ...

H. Repealed.

I. - P.5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:189 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:1119 (September 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 27:1672 (October 2001), LR 33:1855 (September 2007), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 35:

### **Subchapter O. Penalties**

#### **§173. Penalties for Violation of Pesticide Statutes and These Regulations**

A. - B. ...

C. No monetary penalty may be assessed by the commissioner prior to the holding of an adjudicatory hearing before the Advisory Commission on Pesticides. Such adjudicatory hearing shall be conducted in accordance with the requirements of the Administrative Procedure Act; any person alleged to have violated any provision of the pesticide statutes or these regulations shall be accorded all of the rights and privileges guaranteed under said Act.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3252.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:199 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 35:

### **Subchapter S. Unused Portions of Pesticides and/or Rinsate of Pesticides Classified as Hazardous Wastes**

#### **§181. Constructive Recycling**

A. Applicators of pesticides covered under this Section may recover and constructively reuse any unused portions of such pesticides and/or any rinsate of such pesticides by one of the following methods:

1. - 3. ...

B. All unused pesticides and/or rinsate from pesticides, classified as a hazardous waste upon disposal, must be removed from containment tanks in less than 90 days after deposit therein. Each containment tank must be cleaned by triple-rinsing or by procedures equivalent to triple-rinsing. The tank contents and rinsate shall be applied in accordance with the label and labeling requirements governing the initial application of the pesticide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:398 (May 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:282 (February 1998), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 35:

### **Subchapter X. Water Protection**

#### **§205. Procedures for the Determination of Threats**

A. - 1.a.v. ...

b. The water sampling frequency requirements shall be based upon criteria including, but not limited to:

i. the pesticide application season in the area of the water collection sample site;

ii. sampling shall be at least quarterly during any pesticide application season;

c. - e. ...

f. the department shall sample and test fish tissues when the commissioner determines that testing is needed.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3303 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, amended LR 18:248 (March 1992), amended, LR 35:

### Family Impact Statement

The impact of the proposed action regarding the rules and regulations set out in the Notice of Intent on family formation, stability, and autonomy has been considered. It is estimated that the proposed action will have no significant effect on the (1) stability of the family, (2) authority and rights of parents regarding the education and supervision of their children, (3) functioning of the family, (4) family earnings and family budget, (5) behavior and personal responsibility of children, or (6) ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments, data, opinions, and arguments, whether for, against, or regarding these proposed regulations. Written submissions are to be directed to Larry LeJeune, Director of Pesticides and Environmental Programs, at the Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4 p.m. on January 26, 2009. No preamble regarding these proposed regulations is available.

Mike Strain, DVM  
Commissioner

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Pesticides—Examinations, Restriction, Water and Fish Tissue Sampling

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that there will be no significant implementation costs or savings to any such unit.

The proposed action regarding pesticides provides for failure to pass an examination and cheating on examinations; changes the name of the right-of-way pest control category for commercial applicators; provides a numbering system for subcategories that agricultural consultants may become certified for; repeal a restriction on application of pesticides; repeals the requirement for publication in the State Register of an annual list of pesticides which, upon disposal, are declared by the EPA to be hazardous waste; changes the water monitoring frequency from monthly to quarterly and the fish tissue sampling from annually to on an as needed basis. Modifying water monitoring frequency from monthly to quarterly and the fish tissue sampling from annually to an as needed basis merely codifies what is current practice. Thus, there should be no expenditure savings realized by the Department as a result of these specific modifications.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that there will be no significant effect on the revenue collections of any such unit.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that there will be no significant effect on the costs or economic benefits of directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that there will be no significant effect on competition or employment.

Craig Gannuch  
Assistant Commissioner  
0812#034

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Agriculture and Forestry Office of Agro-Consumer Services Agricultural Commodities Commission

Grain and Cotton Indemnity Fund  
(LAC 7:XXVII.139 and 191-217)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with the enabling statute, R.S. 3:3410.2, the Louisiana Agricultural Commodities Commission (commission), proposes to adopt regulations regarding the Grain and Cotton Indemnity Fund (Fund) and repeal regulations regarding the requirement of contracts to be in written form.

The legislature, in Acts 2008, No. 299 of the regular legislative session, enacted R.S. 3:3414(C), to provide for oral contracts or agreements as written evidence and to provide for confirmation notification of a sale and related matters.

The legislature, in Acts 2008, No. 920 of the regular legislative session, enacted R.S. 3:3410.2, authorizing the commission to establish the fund and to use the money in the fund to indemnify producers who are not fully compensated by a licensed grain dealer or cotton merchant who becomes insolvent. The legislature established the amount of the assessment that will go into the fund. These proposed regulations implement the law by creating the fund, defining pertinent words and terms, establishing procedures for the collection and payment of assessments, establishing procedures for the making and paying of claims, providing for appeals of claims, providing for violations, adjudicatory proceedings, and civil penalties, and providing for related matters.

This Rule is enabled by R.S. 3:3410.2 and R.S. 3:3414(C).

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXVII. Agricultural Commodity Dealer and Warehouse Law

#### Chapter 1. Louisiana Agricultural Commodities Commission

#### Subchapter I. Records and Reports

#### §139. Contracts Required to be in Written Form

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3414, R.S. 3:3405 and R.S. 3:3406.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:309 (May 1983), repealed LR 35:

## Subchapter P. Grain and Cotton Indemnity Fund

### §191. Creation

A. The Grain and Cotton Indemnity Fund is hereby created pursuant to R.S. 3:3410.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:

### §193. Definitions

A. The following words and terms are defined for purposes of this Subchapter and supplement the words and terms defined in §101 of this Chapter.

*Claimant*—a producer, as defined in §101 of this Chapter.

*Fund*—the Grain and Cotton Indemnity Fund.

*Insolvency*—the inability of a licensee to meet debts or discharge liabilities.

*Licensee*—for purposes of this Subchapter only, a *Licensee* is a cotton merchant as defined in R.S. 3:3402(6) or a grain dealer as defined in R.S. 3:3402(10).

*Value of Commodity*—the quoted price plus or minus premiums or discounts such as moisture and quality factors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:

### §195. Purpose

A. Upon the insolvency of a licensee, the fund shall be used to reimburse a producer who has not otherwise been fully compensated for grain or cotton sold to the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:

### §197. Assessments

A. The commission shall charge an assessment at the rate of 1/25 of 1 percent on the value of all agricultural commodities regulated under this Chapter which are purchased by grain dealers and cotton merchants licensed in this state.

B. The assessments shall be levied only on commodities regulated by the commission which are grown in Louisiana.

C. The assessments shall be due and payable to the commission by the licensee at the first point of sale, except as otherwise provided for under §199.

D. The assessments shall be due to the commission on a monthly basis.

E. Each grain dealer and cotton merchant shall send a completed copy of the Louisiana Grain and Cotton Indemnity Fund Monthly Assessment Report (supplied by the commission) and assessment to the commission by the fifteenth of each month for the preceding month.

F. In the event no assessments are collected by the licensee, the licensee shall still submit a report each month to the commission on the approved form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:

### §199. Cotton Merchants Operating on a Cooperative Basis

A. Cotton merchants operating on a cooperative basis shall pay the assessment rate of 1/25 of 1 percent of the value of the commodity at the time of each payment, including any initial advance payment, progress payments and final payment to its members as proceeds of the crop.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:

### §201. Claim Provisions

A. The monies in the Grain and Cotton Indemnity Fund shall be used solely for the administration and operation of the fund.

B. Any claimant who wishes to assert a claim must provide under oath written and notarized proof of a loss covered by this fund within 60 days of the loss.

C. A written claim shall include all of the following information:

1. name and address of claimant;
2. name of the licensee against whom claimant is asserting a loss;
3. nature of the relationship and transaction between claimant and licensee;
4. the date of the loss which shall be defined as the date on which the claimant knew or should have known that a loss had occurred;
5. the amount of the loss and how calculated;
6. a concise explanation of the circumstances that precipitated the loss;
7. copies of those documents relied upon by claimant as proof of said loss.

D. Failure to furnish such proof of loss within the required time shall not invalidate nor reduce the claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible.

E. Upon receipt of a proof of loss, the commission shall review the claim to determine whether it is covered under the program. The burden of proof to establish the loss shall be upon the claimant.

F. Once proof of loss has been filed against a licensee, the commission may make a complete inspection of the licensee's physical facilities and the contents thereof, as well as an examination of all books and records of the licensee and/or claimant, subject to the confidentiality requirements of R.S. 3:3421.

G. Once proof of loss has been filed against a licensee, any other claimants alleging a loss caused by said licensee shall have a period of 60 days within which to post and thereby file a written claim.

H. The said 60 day period shall begin to run upon publication by the commission of the notice of claim in the official local journal for legal notices, or the print publication with the highest circulation in the area serviced by the licensee.

I. If claims for indemnity payments from the fund exceed the amount in the fund, the commission shall prorate the claims and pay the prorated amounts. As future assessments are collected, the commission shall continue to

forward indemnity payments to each eligible person until the person receives the maximum amount payable in accordance with this Subchapter.

J. Distributions from the fund shall be made on a periodic basis as deemed necessary by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:

### **§203. Distribution of Funds for Claims from Prior Insolvency**

A. Any claimant who wishes to assert a claim against a licensee who became or becomes insolvent after January 1, 2008, but before the promulgation of these rules must provide under oath, written and notarized proof of a loss covered by this fund within 30 days of notification of claim process.

B. A written claim shall include all of the following information:

1. name and address of claimant;
2. name of the licensee against whom claimant is asserting a loss;
3. nature of the relationship and transaction between claimant and licensee;
4. the date of the loss which shall be defined as the date on which the claimant knew or should have known that a loss had occurred;
5. the amount of the loss and how calculated;
6. a concise explanation of the circumstances that precipitated the loss;
7. copies of those documents relied upon by claimant as proof of said loss.

C. Upon receipt of proof of loss, the commission shall review the claim to determine whether it is covered under the program. The burden of proof to establish the loss shall be upon the claimant.

D. The said 30 day period shall begin to run upon publication by the commission of the notice of claim process in the official local journal for legal notices or the print publication with the highest circulation in the area serviced by the licensee.

E. If claims for indemnity payments from the fund exceed the amount in the fund, the commission shall prorate the claims and pay the prorated amounts. As future assessments are collected, the commission shall continue to forward indemnity payments to each eligible person until the person receives the maximum amount payable in accordance with this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:

### **§205. Appeal Procedure**

A. Any decision of the commission to deny or grant a claim for payment from the fund may be appealed to the commission by the licensee or claimant by seeking an adjudicatory hearing to have said decision reconsidered by the commission in accordance with Chapter 13 of Title 49 of the Louisiana Revised Statutes, as well as all subsequent appeals there from, provided said appellant files with the commission a written notice of appeal within 30 days of the

mailing of the decision of the commission to the affected party.

B. The notice of appeal shall contain an expressed statement of each and every basis upon which said appeal is sought and the hearing to consider same shall be limited accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:

### **§207. Subrogation**

A. Whenever a claim is paid by the commission from the fund, the claimant, by accepting said payment, subrogates his rights to the commission up to the full amount of payment.

B. Any recovery for reimbursement to the fund shall include interest computed at the U.S. Treasury two-year note coupon rate as published in the Wall Street Journal on the date of the claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Louisiana Agricultural Commodities Commission, LR 35:

### **§209. Reimbursement Limitations**

A. Where any loss is or may be covered by other insurance or bond, the other insurance or bond is primary and the commission shall require the claimant to exhaust his remedies as to the other insurer before considering the payment of the claim.

B. After all other remedies are exhausted, claimants shall be entitled to recover the full amount of claims filed against the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:

### **§211. Pending Litigation or Arbitration; Stay of Claims**

A. Where the commission finds that litigation is pending, which could determine whether payment of a claim is due or to whom payment of a claim is due, the claim in question may be stayed until the judgment in said litigation has become final and definitive. The commission shall give notice of the stay to any claimants whose claims have been stayed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:

### **§213. Violations**

A. Providing false information to the commission by a claimant or licensee regarding a claim for reimbursement from the fund is a violation of this Subchapter, if the person providing the information knew or should have known the information was false.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:

## §215. Adjudicatory Hearings

A. Findings of violations and imposition of penalties may be made only by a ruling of the commission based upon an adjudicatory proceeding held in accordance with the provisions of the Administrative Procedure Act.

B. Whenever the commissioner has any reason to believe that a violation of R.S. 3:3410.2, or of any rules and regulations adopted pursuant to this Subchapter has occurred, the commissioner may present the alleged violations to the commission for a determination.

C. A hearing officer shall be appointed by the office of the attorney general to preside over the hearing.

D. Notice of the alleged violation, the date of the adjudicatory hearing, and the conduct of discovery shall be as provided in the Administrative Procedure Act.

E. The ruling of the commission shall be in writing and provided to the person charged with the violation, as provided by the Administrative Procedure Act.

F. Any appeal from a ruling of the commission shall be in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:

## §217. Civil Penalties

A. Any claimant or licensee who has been found in an adjudicatory hearing to be in violation of the provisions of this Subchapter shall be subject to the following civil penalties.

B. Any claimant or licensee who knew or should have known that he was providing the commission with false information regarding a claim may be denied payment of the claim on that basis.

C. Any claimant or licensee who knew or should have known that he was providing the commission with false information regarding a claim, or regarding any other matters pertaining to the fund, shall be subject to a maximum civil penalty of \$1,000 for each violation. Each day the false information is with the commission without correction shall be considered a separate violation.

D. Any licensee who intentionally refuses or fails to collect the assessment or refuses to remit the collected assessment to the commission shall be subject to a maximum civil penalty of \$1,000 for each violation. Each day the assessment is not collected shall be a separate violation. Each day the collected assessment is not remitted to the commission shall be a separate violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:

### Family Impact Statement

The impact of the proposed action regarding the rules and regulations set out in the Notice of Intent on family formation, stability, and autonomy has been considered. It is estimated that the proposed action will have no significant effect on the (1) stability of the family, (2) authority and rights of parents regarding the education and supervision of their children, (3) functioning of the family, (4) family

earnings and family budget, (5) behavior and personal responsibility of children, or (6) ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments, data, opinions, and arguments, whether for, against, or regarding these proposed regulations. Written submissions are to be directed to Kyra Holden, Assistant Director of the Louisiana Agricultural Commodities Commission, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4 p.m. on January 26, 2009. No preamble regarding these proposed regulations is available.

Mike Strain, DVM  
Commissioner

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Grain and Cotton Indemnity Fund

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units. Act 920 of the 2008 regular legislative session enacted R.S. 3:3410.2, which created the Grain and Cotton Indemnity Fund and authorizes the Louisiana Agricultural Commodities Commission to establish rules associated with the utilization of monies in the fund to indemnify producers who are not compensated by a licensed grain dealer or cotton merchant who becomes insolvent. The proposed administrative rules establish procedures for the collection and payment of assessments, establish procedures for paying claims, providing appeals of claims, providing for violations, adjudicatory proceedings and civil penalties.

### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed administrative rules could increase the statutory dedicated funding within the Louisiana Agricultural Commodities Commission in the amount of \$0.5 million in FY 09 and is anticipated to increase by an indeterminable amount in subsequent fiscal years. The proposed rules provide for the commission to charge an assessment at a rate of one-twenty fifth of 1% on the value of all agricultural commodities regulated by the commission (corn, soybean, wheat, rice, cotton). Due to commodity market price fluctuations each fiscal year, there is no way to specifically determine the revenue increase of this measure in subsequent fiscal years.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed administrative rules will provide an economic benefit to the commodity producers. Although the producers (farmers) will pay the fee to the Grain and Cotton Indemnity Fund in the amount of one-twenty fifth of 1% on the value of the commodity, this fee provides insurance against insolvent licensed grain dealers or cotton merchants.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have an effect on competition and employment.

Craig Gannuch  
Assistant Commissioner  
0812#035

Robert E. Hosse  
Staff Director  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Department of Agriculture and Forestry Office of the Commissioner

Market Bulletin Subscriber Fee (LAC 7:I.101)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with the enabling statutes, R.S. 3:2 and 3:3, the Commissioner of Agriculture and Forestry, proposes to amend the regulations establishing the *Louisiana Market Bulletin* (Market Bulletin) subscriber fee to allow an increase in the subscriber fee to help offset the increased cost of producing and distributing the Market Bulletin. The current fee is set at \$10 payable every two years for 52 issues (26 issues per year). The current cost per subscriber for producing and distributing the Market Bulletin is \$10.34 per year. The amendment to the regulations would authorize a yearly subscription fee, to be paid annually upon the ordering or renewal of a subscription. The yearly subscription fee would not exceed the cost of publication and distribution. The subscription fee would currently be increased by \$5 per year from \$5 to \$10.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part I. Administration

#### Chapter 1. Administration Procedure

#### §101. Market Bulletin Subscriber Fee

A. The fee for a yearly subscription to the *Louisiana Market Bulletin* shall not exceed the annual cost of publication and distribution.

B. The subscription fee shall be paid by the subscriber to the Department of Agriculture and Forestry annually at the time the subscription is ordered or renewed. Upon payment of the subscription fee, the subscriber shall be entitled to 26 issues of the *Louisiana Market Bulletin*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2 and 3:3

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 15:75 (February 1989), amended LR 31:26 (January 2005), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 35:

#### Family Impact Statement

The impact of the proposed action regarding the rules and regulations set out in the Notice of Intent on family formation, stability, and autonomy has been considered. It is estimated that the proposed action will have no significant effect on the (1) stability of the family, (2) authority and rights of parents regarding the education and supervision of their children, (3) functioning of the family, (4) family earnings and family budget, (5) behavior and personal responsibility of children, or (6) ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments, data, opinions, and arguments, whether for, against, or regarding these proposed regulations. Written submissions are to be directed to Michelle Estay, Assistant Commissioner for Marketing and Agro-Economic Development, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4 p.m.

on January 26, 2009. No preamble regarding these proposed regulations is available.

Mike Strain, DVM  
Commissioner

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Market Bulletin Subscriber Fee

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that there will be no significant implementation costs or savings to any such unit.

These amendments to the regulations establishing the Louisiana Market Bulletin (Market Bulletin) subscriber fee are necessary to allow an increase in the subscriber fee to help offset the increased cost of producing and distributing the Market Bulletin. The current fee is set at \$10 payable every two years for 52 issues (26 issues per year). The current cost per subscriber for producing and distributing the Market Bulletin is \$10.34 per year. The amendment to the regulations would authorize a yearly subscription fee, to be paid annually upon the ordering or renewal of a subscription. The yearly subscription fee would not exceed the cost of publication and distribution. The current subscription fee would be increased by \$5.00 per year from \$5.00 to \$10.00.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The effect on the revenue collection of the Department of Agriculture and Forestry is estimated to be an increase of \$11,333.33 for fiscal year 2008-09 and \$68,000 for subsequent fiscal years.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated increase in cost to each current subscriber to the Market Bulletin will be \$5.00 annually when the current subscription is renewed. The cost to a new subscriber would be \$10.00 a year. The estimated cost to the members of the general public, as a group, who subscribe to the Market Bulletin will be \$11,333.33 for fiscal year 2008-09 and \$68,000 for subsequent fiscal years.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that there will be no significant effect on competition or employment.

Craig Gannuch  
Assistant Commissioner  
0812#033

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District,  
and State Accountability System  
(LAC 28:LXXXIII.301, 611, 1101, 1501-  
1505, 1701-1707, 2401, 3905, and 4311)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC Part

Number LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State's Accountability System is an evolving system with different components that are required to change in response to state and federal laws and regulations. Proposed changes in Bulletin 111, §301, establish reasonable guidelines for preliminary accountability results to be issued on August 1, which shall include preliminary school performance scores and subgroup component analysis. Proposed changes in Bulletin 111, §611 establish reasonable guidelines for maintaining documents in all schools that had students leave and transfer to a non-public school. Proposed changes in Bulletin 111, §§1101 and 4311 establish reasonable guidelines for the definition of an academically unacceptable school. Proposed changes in Bulletin 111, §2401 establish reasonable guidelines for the Recovery School District to retain jurisdiction of certain schools transferred to the district under specific timelines. Proposed changes in Bulletin 111, §3905 establish reasonable guidelines for post-appeal reconfiguration calculations.

**Title 28  
EDUCATION**

**Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System**

**Chapter 3. School Performance Score Goal**

**§301. School Performance Score Goal**

A. - D. ...

E. Preliminary accountability results issued August 1 shall include both preliminary school performance scores and subgroup component analyses for those schools on the academic watch list, or in school improvement 2 or higher, or who have failed the subgroup component the prior year. Preliminary accountability results issued August 1 shall include schools as delineated in Paragraph 2 below. Final accountability results shall be issued during the fall semester of each year and all accountability reports will reflect the configuration of the school as it existed the prior spring semester.

E.1. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 32:2034, 2035 (November 2006), LR 33:424 (March 2007), LR 33:2349 (November 2007), LR 33:2593 (December 2007), LR 34:430 (March 2008), LR 35:

**Chapter 6. Graduation Index**

**§611. Documenting a Graduation Index**

A. Beginning with academic year 2005-2006, all schools are required to maintain the following documentation if the corresponding exit code is used.

Exit Code Documentation		
Code	Descriptions	Required Documentation
	* * *	
14	Transferred to non-public school (must award high school diplomas)	Request for records from the receiving school
	* * *	

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 35:

**Chapter 11. Performance Labels**

**§1101. Performance Labels**

A. School Performance Score

Performance Label	School Performance Score
Academically Unacceptable	Below 60.0
★	60.0 – 79.9
★★	80.0 – 99.9
★★★	100.0 – 119.9
★★★★	120.0 – 139.9
★★★★★	140.0 and above

B. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2744 (December 2003), amended LR 31:2764 (November 2005), LR 33:2349 (November 2007), LR 35:

**Chapter 15. School Improvement (formerly called Corrective Actions)**

**§1501. Levels of School Improvement**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2745 (December 2003), amended LR 30:2744 (December 2004), LR 31:1513 (July 2005), LR 31:2764 (November 2005), LR 32:1026 (June 2006), repealed LR 35:

**§1503. Entry into School Improvement**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2745 (December 2003), amended LR 30:2257 (October 2004), LR 30:2445 (November 2004), LR 31:1514 (July 2005), LR 32:1027 (June 2006), repealed LR 35:

**§1505. Exit from School Improvement**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2257 (October 2004), LR 31:1514 (July 2005), LR 32:1027 (June 2006), repealed LR 35:

**Chapter 17. Requirements for Schools in School Improvement (SI)**

**§1701. School Improvement Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2744 (December 2004), LR 31:1514 (July 2005), repealed LR 35:

**§1703. School Improvement 2 Requirements (SI 2)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:2257 (October 2004), LR 30:2745 (December 2004), LR 31:1515 (July 2005), LR 32:1027 (June 2006), repealed LR 35:

**§1704. School Improvement 3 Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:2257 (October 2004), LR 30:2745 (December 2004), LR 31:1515 (July 2005), LR 32:1027 (June 2006), repealed LR 35:

**§1705. School Improvement 4 Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2747 (December 2003), amended LR 30:2257 (October 2004), LR 30:2446 (November 2004), LR 31:1515 (July 2005), LR 31:2764 (November 2005), LR 32:1027 (June 2006), repealed LR 35:

**§1706. School Improvement 5 Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2747 (December 2003), amended LR 30:2257 (October 2004), LR 31:1515 (July 2005), repealed LR 35:

**§1707. School Improvement 6 Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2747 (December 2003), amended LR 30:2257 (October 2004), LR 31:1515 (July 2005), repealed LR 35:

**Chapter 24. Recovery School District**

**§2401. Recovery School District**

A. - A. 4. ...

B. The Recovery School District under R.S. 17:10.5 shall retain jurisdiction of any school transferred to it for a period of not less than five school years not including the school year in which the transfer occurred if the transfer occurred during a school year.

1. No later than nine months prior to the expiration of the five-year period, the Recovery School District shall make a report to the State Board of Elementary and Secondary Education.

a. The report shall include at a minimum each of the following elements:

- i. The status of each school transferred
- ii. the nature of its faculty and administration
- iii. the demographics and size of its student body
- iv. its organizational and management structure
- v. whether there has been improvement in student academic performance and, if so, how much and, if not, why not;

vi. a recommendation as to whether the school should be continued in the Recovery School District pursuant to its reported operational status, continued in the Recovery School District with a change in its operational status and the nature of the recommended change, closed and the reasons therefor, or returned to the administration and management of the transferring system with proposed stipulations and conditions for the return.

2. No later than six months prior to the expiration of the five-year period, the State Board of Elementary and Secondary Education shall take action on the recommendations of the Recovery School District.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1028 (June 2006), amended LR 33:2599 (December 2007), LR 34:431 (March 2008), LR 35:

**Chapter 39. Inclusion of Students with Disabilities**

**§3905. Inclusion of Alternate Assessment Results**

A. Beginning with the 2008 post-appeal reconfiguration calculations, all SPS shall include LAA1 scores.

B. Each LAA 1 exam will be assigned 1 of 3 performance levels (Exceeds Standard, Meets Standard, Working Toward Standard) and each performance level will be assigned points for use in assessment index calculations as follows.

LAA 1 Performance Level	Assessment Points
Exceeds Standard	150
Meets Standard	100
Working Toward Standard	50

1. Students scoring Meets Standard or Exceeds Standard on a LAA 1 exam will be considered Proficient in Subgroup Component calculations.

2. Students taking LAA 1 or LAA 2 exams shall be included in accountability calculations at the grade level in which they are enrolled in the Student Information System (SIS).

C. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 30:767 (April 2004), LR 31:2763 (November 2005), LR 33:254 (February 2007), LR 35:2031 (October 2008), LR 35:

**Chapter 43. District Accountability**

**§4311. Performance Labels**

A. - A.1. ...

Performance Label	District Performance Score
Academically Unacceptable	Below 60.0
★	60.0 – 79.9
★★	80.0 – 99.9
★★★	100.0 – 119.9
★★★★	120.0 – 139.9
★★★★★	140.0 and above

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2757 (December 2003), amended LR 30:1449 (July 2004), LR 31:635 (March 2005), LR 33:635 (April 2007), LR 35:

**Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office, which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

I. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., February 8, 2009, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 111—The Louisiana School, District, and State Accountability System**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Proposed changes in Bulletin 111, §301 establish reasonable guidelines for preliminary accountability results to be issued on August 1, which shall include preliminary school performance scores and subgroup component analysis.

Proposed changes in Bulletin 111, §611 establish reasonable guidelines for maintaining documents in all schools that had students leave and transfer to a non-public school.

Proposed changes in Bulletin 111, §§1101 and 4311 establish reasonable guidelines for the definition of an academically unacceptable school.

Proposed changes in Bulletin 111, §2401 establish reasonable guidelines for the Recovery School District to retain jurisdiction of certain schools transferred to the district under specific timelines.

Proposed changes in Bulletin 111, §3905 establish reasonable guidelines for post-appeal reconfiguration calculations.

There are no estimated implementation costs (savings) to state or local governmental units as a result of these changes.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
0812#055

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 111—The Louisiana School, District, and State Accountability System—Academic Assistance Waivers and LAA1 Results (LAC 28:LXXXIII.1403 and 3905)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC 28:LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components that are required to change in response to state and federal laws and regulations. Proposed changes in §3905 establish reasonable guidelines for LAA1 results to be included in 2007-08 subgroup component decisions. The districts will implement the sanctions upon notification and this information will be included in the accountability reports during appeals. Proposed changes in §1403 establish reasonable guidelines for districts requesting waivers from academic assistance status if certain conditions exist.

**Title 28**

**EDUCATION**

**Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System**

**Chapter 14. Academic Assistance (formerly School Improvement 1)**

**§1403. Entry into Academic Assistance**

A. - B. ...

1. The total number of academically unacceptable (AUS) schools, schools in subgroup component failure, and schools in academic assistance exceeds 30 percent of the non-alternative schools in the district.

B.1.a - B. 2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1513 (July 2005), amended LR 33:2349 (November 2007), amended LR 35:

**Chapter 39. Inclusion of Alternate Assessment Results**  
**§3905. Inclusion of Alternate Assessment Results**

A. ...

1. In accordance with a directive from the US Department of Education, LAA 1 results will be included in 2007-08 subgroup component decisions. Because the test results arrive at the LDE in late Sept., any schools/district that must implement sanctions (offer choice or SES, submit plans, etc.) as a result of the inclusion of this data will be notified by LDE at the earliest possible date. The districts must implement the sanctions upon notification. Inclusion of this information in the accountability reports will occur during appeals.

B. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 30:767 (April 2004), LR 31:2763 (November 2005), LR 33:254 (February 2007), LR 35:2031 (October 2008), amended LR 35:

**Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office, which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., February 8, 2009, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT**  
**FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Bulletin 111—The Louisiana School,**  
**District, and State Accountability System—Academic**  
**Assistance Waivers and LAA1 Results**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Proposed changes in Bulletin 111, §3905 establish reasonable guidelines for LAA1 results to be included in 2007-08 subgroup component decisions. The districts will implement any sanctions upon notification, and this information will be included in the accountability reports will occur during appeals.

Proposed changes in Bulletin 111, §1403 establish reasonable guidelines for districts requesting waivers from Academic Assistance status if certain conditions exist.

There are no estimated implementation costs (savings) to state or local governmental units as a result of these changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
0812#056

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28:CXV.1103 and 1118)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*, §1103, "Compulsory Attendance," and §1118, "Dropout Prevention and Recovery." In the 2008 Legislative Session, R.S. 17:221(e) regarding compulsory school attendance was amended to require the parent or legal guardian to provide written acknowledgment that the student's withdrawal from school would likely reduce the student's future earning potential and increase the student's likelihood of being unemployed in the future.

In addition, R.S. 17:221.4, the Dropout Recovery Act, was enacted to require LEAS with a four-year cohort graduation rate of less than 70 percent as determined by the state board to provide specific methods of targeted intervention. LEAs that do not show a decrease in the annual dropout rate will provide a written report to document the outcomes of the dropout prevention strategies to date at the school and how the school system dropout prevention strategies and activities will be modified based on the data.

**Title 28**

**EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for School Administrators**

**Chapter 11. Student Services**

**§1103. Compulsory Attendance**

A. ...

B. Students between the ages of 17 and 18 may withdraw from school prior to graduation with the written consent of their parents, tutors, or legal guardians. A parent, tutor, or legal guardian who has given written consent for a student under his or her control or charge to withdraw from school prior to graduation, or who has a student who is under the age of 17 and is attending or is seeking admission

to a National Guard Youth Challenge Program in this state, shall not be considered to be in violation of the compulsory attendance law.

1. An exit interview shall be conducted with the student and his parent, tutor, or legal guardian.

a. The student and his parent, tutor, or legal guardian shall provide written acknowledgment that withdrawal from school shall likely reduce the student's future earning potential and increase the student's likelihood of being unemployed in the future.

b. During such exit interview, a student who is withdrawing from school shall be given information that has been prepared and supplied by the Louisiana Workforce Commission regarding available training and employment opportunity programs, provided such information is available.

2. The parent, tutor, or other person responsible for the school attendance of a student who is under age 18 and who is enrolled in school beyond his sixteenth birthday may request that the student be allowed to attend an alternative education program or a career and technical education program. In the case of a student who has no parent, tutor, or other person responsible for his school attendance, the superintendent of the LEA may act on behalf of the student in making such a request. Upon such request, the superintendent of the LEA in which the student is enrolled shall be responsible for determining whether the student remains in the regular school setting or attends an alternative education program or a career and technical education program, and for developing and implementing an individualized plan of education for such student.

3. The compulsory attendance law does not prohibit a student who is at least 16 years of age and who meets the criteria in §2703 from attending an adult education program approved by BESE. A parent, tutor, or other person responsible for the school attendance of a child who is at least 16 years of age but under age 18 and who is enrolled in and is fulfilling the attendance requirements of an adult education program that is approved by BESE shall be considered to be in compliance with the compulsory attendance law.

C. – M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:221(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1273 (June 2005), amended LR 32:546 (April 2006), LR 32:1030 (June 2006), LR 33:2351 (November 2007), LR 35:

### **§1118. Dropout Prevention and Recovery**

A. LEAs with a cohort graduation rate of less than 70 percent as determined by BESE shall identify specific methods of targeted interventions for dropout prevention and recovery that may include:

1. early intervention for students who are at risk of failing Algebra I or any ninth grade math class;

2. alternative programs designed to reengage dropouts;

3. increased availability of Advanced Placement courses.

4. comprehensive coaching for middle school students who are below grade level in reading and math;

5. teacher advisories such as the use of graduation coaches and other supports that are designed to specifically address the needs of youth most at risk of dropping out of school;

6. strategies specifically designed to improve the high school graduation rate of students at highest risk for dropping out, including youth in the foster care system, pregnant and parenting youth, Limited English Proficient students, and students with special education needs;

7. communicating with students and their parents or legal guardians about the availability of local after-school programs and the academic enrichment and other activities the programs offered;

8. opportunities for credit recovery;

9. opportunities to participate in the Jobs for America's Graduates program.

B. LEAs that fail to show a decline in their annual dropout rates shall prepare and submit each year to BESE a written report that documents:

1. the outcomes of the dropout prevention strategies to date at the school system level;

2. how the school system dropout prevention strategies and activities will be modified, based on the data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:221.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:

### **Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? Yes

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? Yes.

5. Will the proposed Rule affect the behavior and personal responsibility of children? Yes.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., February 8, 2009, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—Louisiana Handbook for  
School Administrators**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed changes to Bulletin 741 address changes to the compulsory attendance law and the Dropout Prevention Act, Act 742 of the 2008 Legislative Session. The projected cost to the Department of Education is \$100 to prepare a letter announcing the changes and postage for dissemination to the districts, and \$900 for regional workshops for technical assistance in implementation of the policy. The Local Education Agencies (LEAs) may choose to implement new initiatives related to compliance with these policy revisions. The LEAs will use Minimum Foundation Program and local funds to implement any new initiatives, but the estimated costs for any new initiatives can't be determined at this time.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The effect on revenue collections can't be calculated at this time; however, students who remain in school and complete a secondary education will be better prepared to enter postsecondary education and the workforce which may impact the economy of the state and local governments.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

The effect on directly affected persons and/or non-governmental groups can't be calculated at this time; however, students who remain in school and complete a secondary education will be better prepared to enter postsecondary education and the workforce which may impact the economy.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

Students impacted by these policies may be better prepared to enter postsecondary education or the workforce.

Beth Scioneaux  
Deputy Superintendent  
0812#057

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 746—Louisiana Standards for State Certification  
of School Personnel—Foreign Language Special Certificate  
(LAC 28:CXXXI.311)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, §311, "Foreign Language Special Certification (FLS) policy will allow an individual who is teaching foreign language in an elementary school (FLES) to renew his/her teaching certificate by the completion of 150 hours of continuing learning units (CLUs) of district approved and verified professional development. This policy will also allow for the reinstatement of a lapsed FLS certificate upon the completion of six semester hours of credit in state-approved

courses during the five year period immediately preceding the request for reinstatement. Current policy does not allow for the renewal or reinstatement of a Foreign Language Special Certificate.

**Title 28**

**EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for  
State Certification of School Personnel**

**Chapter 3. Teaching Authorizations and  
Certifications**

**Subchapter A. Standard Teaching Authorizations**

**§311. Foreign Language Special Certificate PK-  
8—Valid for Six-Years and Renewable with  
CLU's**

A. - C. ...

D. Eligibility guidelines:

1. a bachelor's degree in education or equivalent preparation in education from a foreign country. The status of this degree will be determined by the Louisiana Department of Education (LDE). If LDE staff cannot make a degree equivalent determination, the candidate's credentials must be evaluated by the American Association of Collegiate Registrars and Admissions Officers (AACRAO) or by World Education Services (WES). In the case of an AACRAO or WES evaluation, the determination must be on "safe script" paper and must include a course-by-course evaluation;

2. a teaching certificate in the foreign country for the certification area and/or grade level that the candidate will teach in Louisiana;

3. evidence of two years of successful teaching experience in the country of origin; and

4. a native speaker of the language to be taught.

E. A teacher holding an FLES certificate may qualify for a renewal or professional level certificate by completing one of the following.

a. Renewal. The FLES certificate may be renewed by completing 150 continuing learning units (CLUs) of district-approved and verified professional development over the five year time period during which he/she holds the certificate, or during the five year time period immediately preceding the request for renewal. The Louisiana employing authority must request renewal of a FLES certificate. If the 150 continuing learning units were completed abroad then the request must come from the Division of Curriculum Standards.

b. Level 1. A Professional Level 1 certificate by completing the PRAXIS I Pre-Professional Skills Test and PRAXIS II content area examination(s) and pedagogy exam at the appropriate grade level.

c. If the holder did not earn six semester hours or equivalent, the lapsed certificate may be reactivated upon request (at the level that was attained prior to disuse) for a period of one year, during which time the holder must complete reinstatement requirements.

F. Professional Level 1. A Professional Level 1 certificate may be issued after successful completion of the PRAXIS I Pre-Professional Skills Test, PRAXIS II content area examination(s), and pedagogy exam at the appropriate grade level. For renewal and reinstatement guidelines of a Level 1 certificate see Chapter 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1800 (October 2006), amended LR 33:1618 (August 2007), LR 34:233 (February 2008), LR 35:

### Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., February 8, 2009, to: Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel—Foreign Language Special Certificate

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This revision to the Foreign Language Special Certification (FLS) policy will allow an individual who is teaching foreign language in an elementary school (FLES) to renew his/her teaching certificate by the completion of 150 hours of continuing learning units (CLUs) of district approved and verified professional development. This policy will also allow for the reinstatement of a lapsed FLS certificate upon the completion of six semester hours of credit in state-approved courses during the five year period immediately preceding the request for reinstatement. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
0812#059

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Board of Elementary and Secondary Education

#### Bulletin 746—Louisiana Standards for State Certification of School Personnel—Highly Qualified Policy for Teachers (LAC 28:CXXXI.1103)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, §1103, "Highly Qualified Policy for Teachers." This revision in current Bulletin 746 policy amends the Highly Qualified definition for "not new" (experienced) elementary teachers specifically pertaining to Louisiana's High Objective Uniform State Standard of Evaluation (HOUSSE) option. This revision in policy is based upon a recommendation made by the Academic Improvement and Teacher Quality Programs Office of the U.S. Department of Education's Office of Elementary and Secondary Education during a program review conducted in Louisiana during May 2008.

#### Title 28

#### EDUCATION

#### Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel Chapter 11. State and Federal Guidelines Related to No Child Left Behind Federal Legislation: Qualifications for Teachers and Paraprofessionals

#### §1103. Highly Qualified Policy for Teachers

A. - L.2.c.i. ...

ii. by the end of the 2005-2006 school year, qualifies under the High Objective Uniform State Standard of Evaluation (HOUSSE) Plan for Not New Elementary Teachers, as follows:

(a) hold a current National Board for Professional Teaching Standards (NBPTS) certification in early childhood, middle childhood, or in a content area basic to the elementary school (e.g., Early Language Arts, Early Mathematics) and is teaching in the NBPTS area of certification;

(b) has at least 12 semester hours of credit in each of the four core disciplines (English/language arts, including reading and writing; math; science; and social studies);

(c) a teacher who does not meet the requirements of Subparagraphs (a)-(b) above is considered highly qualified if he/she is state certified and teaching in the area of certification and if he/she completes 90 continuing learning units (CLUs) by the end of the 2005-2006 school

year, with the beginning of the 2001-2002 school year as the beginning date for earning CLUs;

(d). a teacher's previous work experience as a fully certified teacher may be credited as CLUs at the rate of three CLUs for each year of successful experience in the content area, with a maximum of 45 CLUs earned through work experience;

(e). the Local Education Agency (LEA) is responsible for maintaining documentation for educators seeking "highly qualified" status, as defined by NCLB, through the HOUSSE option (90 CLUs), as follows:

(i). identifying teachers in their employment using the HOUSSE option;

(ii). providing an annual update on each identified teacher's status (progress) toward earning the required 90 CLUs;

(f). see the Section at the end of this Chapter entitled "Continuing Learning Units (CLUs)."

L.3. - 6.c.v.(3). ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2053 (October 2007), amended LR 35:

#### Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., February 8, 2009, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: **Bulletin 746—Louisiana Standards for State Certification of School Personnel Highly Qualified Policy for Teachers**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This revision in current Bulletin 746 policy amends the Highly Qualified definition for "not new" (experienced) elementary teachers specifically pertaining to Louisiana's High Objective Uniform State Standard of Evaluation (HOUSSE) option. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
0812#061

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—PRAXIS I Scores (LAC 28:CXXXI.241)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, §241, "PRAXIS I SCORES." This revision of the PRAXIS examination policy would allow the transition of the Praxis Family and Consumer Science (0120) exam to the Praxis Family and Consumer Science (0121) exam enabling the Praxis scale of 100-200 which is used for the majority of the Praxis exams. The effective date of this transition is January 1, 2009. Educational Testing Services (ETS) undergoes a periodic review, revision, and regeneration of all assessments offered in the Praxis program. The Family and Consumer Sciences test has been changed by ETS from the old NTE scale to the new Praxis scale.

**Title 28  
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for  
State Certification of School Personnel**

**Chapter 2. Louisiana Teacher Preparation Programs  
Subchapter B. Alternate Teacher Preparation Programs**

**§241. PRAXIS I Scores**

A. - B. ...

C. Certification Areas

1. Grades 6-12 Certification

Grades 6-12 Certification Areas		Score	PLT 7-12		
Agriculture	Agriculture (0700) Effective 7/1/05	510	---	---	161
Business	Business Education (0100) Prior to 5/31/04	540	---	---	161
	Effective 6/1/04	570			
English	English Language, Literature, & Composition: Content Knowledge (0041)	160	---	---	161
	Pedagogy (0043)	130			
Family & Consumer Sciences (formerly Home Economics)	Family & Consumer Sciences (0120) Prior to 12/31/08	510	---	---	161
	Family & Consumer Sciences (0121) Effective 1/1/09	141			
French	French (0170) Prior to 5/31/04	520	---	---	161
	French: Content Knowledge (0173) Effective 6/1/04	156			
German	German (0180) Prior to 6/30/06	500	---	---	161
	German: Content Knowledge (0181) Effective 7/1/06	151			
Mathematics	Mathematics (0060) Prior to 5/31/04	550	---	---	161
	Mathematics: Content Knowledge (0061) Effective 6/1/04	125			
	Effective 6/1/07	130			
	Effective 6/1/10	135			
School Librarian	Library Media Specialist (0310)	560	---	---	---
Social Studies	Social Studies: Content Knowledge (0081)	149	---	---	161
	Interpretation of Materials (0083)	152			
Science Areas					
Biology	Biology & General Science (0030) Prior to 6/30/05	580	---	---	161
	Biology: Content Knowledge (0235) Effective 7/1/05	150			
Chemistry	Chemistry/Physics/General Science (0070) Prior to 6/30/06	530			161
	Chemistry: Content Knowledge (0245) Effective 7/1/06	151			
Earth Science	None Available**				161
Environmental	None Available**				161
General Science	General Science: Content Knowledge (0435) Effective 7/1/05	156	---	---	161
	Biology & General Science (0030) Prior to 6/30/05	580			
	or Chemistry/Physics/General Science (0070) Prior to 6/30/06	530			
Physics	Chemistry/Physics/General Science (0070) Prior to 6/30/06	530			161
	Physics: Content Knowledge (0265) Effective 7/1/06	141			
Spanish	Spanish (0190) Prior to 5/31/04	540	---	---	161
	Spanish: Content Knowledge (0191) Effective 6/1/04	160			
Speech	Speech Communications (0220) Effective 7/1/05	575	---	---	161
Technology Education (formerly Industrial Arts)	Technology Education (0050) Effective 7/1/05	600	---	---	161
Computer Science, Journalism Latin, Marketing (formerly Distributive Education)	At this time, a content area exam is not required for certification in Louisiana.	---	---	---	161

C.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1836 (October 2006), amended LR 33:2355 (November 2007), LR 35:

### Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., February 8, 2009, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel PRAXIS I Scores

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This revision of the PRAXIS examination policy would allow the transition of the Praxis Family and Consumer Science (0120) exam to the Praxis Family and Consumer Science (0121) exam enabling the Praxis scale of 100-200 which is used for the majority of the Praxis exams. The effective date of this transition is January 1, 2009. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
0812#058

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Board of Elementary and Secondary Education

#### Bulletin 746—Louisiana Standards for State Certification of School Personnel—Turnaround Specialist Endorsement (LAC 28:CXXXI.710)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, §710, "Turnaround Specialist Endorsement (Optional)." This revision will allow the issuance of a Turnaround Specialist add-on endorsement to a valid Louisiana teaching certificate. An applicant for this endorsement must complete the Louisiana School Turnaround Specialist Program (LSTS), which is designed to strengthen the organizational and leadership skills of certified and experienced principals. This option will be included in the Add-On Endorsement Policy of Bulletin 746. The additional endorsement of Turnaround Specialist could provide districts with candidates who have received the necessary training and are certified to lead a chronically failing school in Louisiana.

#### Title 28 EDUCATION

#### Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

#### Chapter 7. Administrative and Supervisory Credentials

#### Subchapter A. The Educational Leadership Certification Structure—Effective July 1, 2006

#### §710. Turnaround Specialist Endorsement (Optional)

A. The Louisiana School Turnaround Specialist Program (LSTS) is a leadership development program designed to strengthen the organizational and instructional leadership skills of currently certified and experienced principals to prepare them to lead low-performing schools to higher student achievement. This endorsement is valid for five years and is renewable based upon successful completion and verification of required continuing learning units.

1. To receive a Turnaround Specialist Endorsement the individual must meet all of the following requirements:

a. hold a valid Level 2, Level 3, Type B, Type A or out-of-state (OS) certificate with three years of teaching in the certified area and certification as an elementary/secondary principal, principal, or educational leader;

b. successfully complete the LSTS Program;

c. meet all achievement targets which are a part of the LSTS program;

d. receive the recommendation of the Louisiana employing authority.

2. **Renewal Requirements.** For the purpose of maintaining a valid endorsement, holders of the Turnaround Specialist Endorsement are required to complete 150 continuing learning units (CLUs) of professional development consistent with the Individual Professional Growth Plan (IPGP).

a. If an individual holds a Louisiana Level 2 or 3 teaching certificate, then the renewal date is tied to the renewal date on the teaching certificate.

b. If an individual does not hold a Louisiana Level 2 or 3 teaching certificate, but does hold an educational leader endorsement, then the renewal date is tied to the renewal date on the educational leader endorsement.

c. If an individual holds neither a Louisiana Level 2 nor Level 3 teaching certificate nor an Educational Leader endorsement, then the renewal time period begins with the date of issue of the Turnaround Specialist Endorsement.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 35:

#### **Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., February 8, 2009, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.  
Executive Director

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel Turnaround Specialist Endorsement**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This revision will allow the issuance of a Turnaround Specialist add-on endorsement to a valid Louisiana teaching certificate. An applicant for this endorsement must complete the Louisiana School Turnaround Specialist Program (LSTS) which is designed to strengthen the organizational and leadership skills of certified and experienced principals. This option will be included in the Add-On Endorsement Policy of Bulletin 746. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
0812#060

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Board of Elementary and Secondary Education**

Bulletin 1191—School Transportation Handbook  
(LAC 28:XXVII.2511)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1191—School Transportation Handbook*, §2511, "Transportation of Students with Special Needs by Other than a Regularly Equipped School Bus" Special School District and the Board Special Schools submitted the revisions to be incorporated into the document which add a transportation option for transporting students with disabilities in these facilities. Current policy requires the use of a school bus when any student needs to be transported under any situation. There are several concerns with this policy, including financial cost, efficiency, and the social stigma attached for students. For example, if one student needs to attend a counseling session off campus, the school would have to utilize a school bus to transport that student. The department drafted language to address this issue; the legal staff has ensured the language is not in violation of existing state and federal guidelines.

#### **Title 28 EDUCATION**

#### **Part XXVII. Bulletin 1191—School Transportation Handbook**

#### **Chapter 25. Special Education Transportation**

#### **§2511. Transportation of Students with Special Needs by Other than a Regularly Equipped School Bus**

A. - A.5. ...

6. Students in special schools as defined in R.S. 17:43 may be transported in properly insured vehicles, other than school buses, by a school employee holding a valid

Louisiana driver's license, under the following circumstances:

a. a student is being transported during school hours to a non-academic appointment/activity, e.g., a visit to the dentist;

b. a student, or a small group of students (seven or less), is being transported before or after school hours to a recreational or personal event/activity or to a life skills activity, e.g., going shopping or going to a movie;

c. a student, or a small group of students (seven or less), is being transported to a job or a job interview.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:636 (April 1999), amended LR 35:

### Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., February 8, 2009, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: **Bulletin 1191** **School Transportation Handbook**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Current regulations require all school systems to transport students exclusively in school buses. The changes to the policy add a transportation option which allows the Special School District (SSD) to transport a small number of students in vehicles other than school buses. This change is necessary because of the small number of students at most SSD schools who can be transported more efficiently in vehicles other than school buses. There will be no increase in costs for any state or local governmental unit. In fact, the SSD anticipates a cost savings by implementing this change. However, it is not possible to estimate the cost savings at this time. There is no

estimated cost to the Department of Education for this rule change for printing and postage because the regulations will be available electronically.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change will have no estimated effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule change has no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule change has no estimated effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
0812#062

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Board of Elementary and Secondary Education

#### Bulletin 1213—Minimum Standards for School Buses (LAC 28:XXV.1101)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1213—Minimum Standards for School Buses*, §1101, "General Requirements." This revision to Bulletin 1213, Minimum Standards for School Buses, §1101, merely allows the concurrent amendment to Bulletin 1191, §2511. SSD and the Board Special Schools submitted the revisions which add an option for transporting students with disabilities in these facilities. Current policy requires the use of a school bus when any student needs to be transported under any situation. There are several concerns with this policy, including financial cost, efficiency, and the social stigma attached for students. For example, if one student needs to attend a counseling session off campus, the school would have to utilize a school bus to transport that student. The department drafted this revision to address this issue; the legal staff has ensured the language is not in violation of existing state and federal guidelines.

#### Title 28 EDUCATION

#### Part XXV. Bulletin 1213—Minimum Standards for School Buses

#### Chapter 11. Standards for Specially Equipped School Buses; Vehicles Designed to Transport Students with Disabilities

#### §1101. General Requirements

A. Vehicles designed to transport students with disabilities shall comply generally with all minimum standards for school buses, except as otherwise provided in Bulletin 1191.

B. - B.11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:651 (April 1999), amended LR 35:

### Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., February 8, 2009, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 1213—Minimum Standards for School Buses**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
Current regulations require all school systems to transport students exclusively in school buses. The changes to the policy add a transportation option which allows the Special School District (SSD) to transport a small number of students in vehicles other than school buses. This change is necessary because of the small number of students at most SSD schools who can be transported more efficiently in vehicles other than school buses. There will be no increase in costs for any state or local governmental unit. In fact, the SSD anticipates a cost savings by implementing this change. However, it is not possible to estimate the cost savings at this time. There is no estimated cost to the Department of Education for this rule change for printing and postage because the regulations will be available electronically.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This rule change will have no estimated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
This rule change has no estimated costs and / or economic benefits to directly affected persons or non-governmental groups.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule change has no estimated impact on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
0812#063

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Board of Elementary and Secondary Education

Bulletin 1794—State Textbook Adoption Policy and Procedure Manual (LAC 28:XXXIII.301 and 311)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement amendments to *Bulletin 1794—State Textbook Adoption Policy and Procedure Manual* (LAC 28:XXXIII). This action is a result of growing inequities caused by the allowance of free material offers with the purchase of state approved textbooks. A taskforce has recommended, and the State Board of Elementary and Secondary Education has approved, that "free items with purchase" are limited to instructional materials with intellectual content.

#### Title 28

#### EDUCATION

#### Part. XXXIII. Bulletin 1794—State Textbook Adoption Policy and Procedure Manual

#### Chapter 3. General Provisions

#### §301. Definitions

*Ancillary*—materials shall be defined as materials that are intended and designed to be used with a comprehensive basal program submitted by the same publisher and may include materials such as workbooks, puzzles, assessment materials, black line masters, transparencies, etc. Ancillary materials will be added to the publisher's contract after the SBESE's approval of the basal textbook and teacher's edition. These materials shall be limited to *instructional materials* (see definition herein).

*Basal*—student-based curricular materials (print or non-print) that encompass the SBESE-approved Louisiana Grade-Level Expectations for specified subject areas. These curricular materials are considered a major teacher and student resource for attainment of the state standards and benchmarks and for the locally designed and aligned curriculum and course. These materials shall be limited to *instructional materials* (see definition herein).

\* \* \*

*Instructional Materials*—limited to items having intellectual content that by design assist in the instruction of a subject or course. Instructional Materials may be transmitted via "storage mechanisms" (such as CD-ROMs, DVDs, flash drives, etc.), but "delivery mechanisms" (such as iPods, laptops, whiteboards, etc.) shall not be included in the adopted materials. Instructional Materials may be available in bound, unbound, bundled or package form and may consist of hardbound or softbound textbooks, consumables, manipulatives, electronic media, and computer

courseware or software. Instructional Materials do not include electronic or computer hardware even if such hardware is bundled with software or other electronic media, nor does it include equipment or supplies.

\* \* \*

*Textbook*—any medium or material (print or non-print), book, or electronic medium that constitutes the principal source for teaching and learning in a specified subject area. A textbook shall be a systematically organized core of stand alone instructional materials (which may be hardbound, softbound, electronic or other media) designed to support the teaching and learning of a curriculum based on the SBESE-approved Grade-Level Expectations or state curricular guides (e.g., home economics, foreign language, health, business education). These materials shall be limited to *instructional materials* (see definition herein).

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 25:1436 (August 1999), repromulgated LR 26:992 (May 2000), amended LR 32:1030 (June 2006), LR 33:636 (April 2007), repromulgated LR 34:64 (January 2008), amended LR 35:

### §311. Invitation Circular Letter

A. - G...

H. Any items designated as "free" by publishers must also be submitted on the appropriate "LT Submission" Form(s). Publishers may modify their free offerings by providing a written explanation and a detailed listing of items to be added to their original submission to the Department of Education within 60 days of the original due date. Any additions or offers of free materials or services made to local school systems verbally or in writing that are not included on forms submitted to the department will be considered a violation and may cause the publisher to be disqualified. All free items shall be *instructional materials* (see definitions in §301).

**AUTHORITY NOTE:** Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351-353; 361-365; 415.1; 463.46.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 25:1440 (August 1999), repromulgated LR 26:995 (May 2000), amended LR 29:124 (February 2003), LR 35:

### Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office that has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule effect the functioning of the family? No.

4. Will the proposed Rule effect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes

Interested persons may submit written comments until 4:30 p.m., February 8, 2009, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Amy B. Westbrook, Ph.D.  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Bulletin 1794—State Textbook Adoption Policy and Procedure Manual

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The changes to the policy define certain terms, clarifies the state's role in preparing and storing electronic files, adds an appendix, and update the policy with technical changes. There will be no increase in costs for local governmental units. The estimated cost to the Department of Education for this rule change is \$135 (for printing and postage).

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change should have no significant effect on state or local revenue collections.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no measurable, anticipated cost or economic benefit to any person or non-governmental group.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment.

Beth Scioneaux  
Deputy Superintendent  
0812#064

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Environmental Quality Office of the Secretary Legal Affairs Division

Control Technology Guidelines  
(LAC 33:III.111, 2123, and 2143) (AQ296)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.111, 2123, and 2143 (Log #AQ296).

This Rule reflects changes made to the lithographic printing materials and letterpress printing materials Control Technology Guidelines (CTG) and the flexible package printing materials CTG that were published in the *Federal Register*, Volume 71, on October 5, 2006, pages 58745-58753. In addition, based on public comment, EPA

incorporated an option into the industrial cleaning solvents CTG. In the *Federal Register*, Volume 72, on October 9, 2007, pages 57215-57222, EPA made changes to the paper, film, and foil coatings CTG, and the metal furniture coatings and large appliance coatings CTG. The final CTG for paper, film, and foil coatings have been revised to provide separate applicability recommendations for coating operations and cleaning operations, and the final CTG for metal furniture coatings and large appliance coatings have been revised to reflect a lower volatile organic compound (VOC) content coatings recommendations. The Clean Air Act (CAA) Section 172(c)(1) provides that state implementation plans (SIPs) for nonattainment areas must include reasonably available control measures (RACM), including reasonably available control technology (RACT) for sources of emissions. CAA Section 182(b)(2)(A) provides that for certain nonattainment areas, states must revise their SIPs to include RACT for each category of VOC sources covered by a CTG document issued between November 15, 1990, and the date of attainment. EPA provides states with guidance concerning what types of controls could constitute RACT for a given source category through issuance of a CTG. States can follow the CTG and adopt state regulations to implement the recommendations contained therein, or they can adopt alternative approaches. The states must submit their RACT rules to EPA for review and approval as part of the SIP process. This rule amends the state air regulations to follow the CTG recommendations provided by EPA, which will then be included in the SIP to meet the requirements of the CAA. The basis and rationale for this rule are to meet the CAA requirements for SIP submittals. This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part III. Air**

**Chapter 1. General Provisions**

**§111. Definitions**

A. When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below.

\* \* \*

*Miscellaneous Metal Parts and Products Coating*—the coating of miscellaneous metal parts and products in the following categories:

a. - f. ...

g. any other category of coated metal products except those on the specified list in LAC 33:III.2123.C.1-3, 5-7, and 10 of surface coating processes, which are included in the Standard Industrial Classification Code major group 33 (primary metal industries), major group 34 (fabricated metal products), major group 35 (nonelectrical machinery), major group 36 (electrical machinery), major group 37 (transportation equipment), major group 38 (miscellaneous instruments), and major group 39 (miscellaneous manufacturing industries).

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:777 (August 1991), LR 21:1081 (October 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:808 (May 2006), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:70 (January 2008), LR 35:

**Chapter 21. Control of Emission of Organic Compounds**

**Subchapter B. Organic Solvents**

**§2123. Organic Solvents**

A. Except as provided in Subsections B and C of this Section, any emission source using organic solvents having an emission of organic solvents of more than 3 pounds (1.3 kilograms) per hour or 15 pounds (6.8 kilograms) per day shall reduce the emission, where feasible, by incorporating one or more of the following control methods:

1. incineration, provided 90 percent of the carbon in the organic compounds being incinerated is oxidized to carbon dioxide (except as provided in Subsection D of this Section);
2. carbon adsorption, with a control efficiency of at least 90 percent, of the organic compounds;
3. any other equivalent means as may be approved by the administrative authority. Once a source exceeds the emission cutoff specified in this Section that source shall be subject and shall remain subject to the requirements of this Subsection regardless of future emission rates.

B. Soldering operations, painting and coating operations not listed in Subsection C of this Section, and dry cleaning operations using organic solvents that are not considered photochemically reactive shall be considered for exemption from the requirements of this Section.

1. - 2. ...

C. Surface Coating Industries. No person may cause, suffer, allow, or permit volatile organic compound (VOC) emissions from the surface coating of any materials affected by this Subsection to exceed the emission limits as specified in this Section.

Affected Facility	Daily Weighted Average VOC Emission Limitation	
	Lbs. per Gal. of Coating as applied (minus water and exempt solvent)	Kgs. per Liter of Coating as applied (minus water and exempt solvent)
<b>1. Large Appliance Coating Industry</b>		
General, One Component (Baked/Air Dried)	2.3 / 2.3	0.275 / 0.275
General, Multi-Component (Baked/Air Dried)	2.3 / 2.8	0.275 / 0.340
Extreme High Gloss (Baked/Air Dried)	3.0 / 2.8	0.360 / 0.340
Extreme Performance (Baked/Air Dried)	3.0 / 3.5	0.360 / 0.420
Heat Resistant (Baked/Air Dried)	3.0 / 3.5	0.360 / 0.420
Metallic (Baked/Air Dried)	3.5 / 3.5	0.420 / 0.420
Pretreatment Coatings (Baked/Air Dried)	3.5 / 3.5	0.420 / 0.420
Solar Absorbent (Baked/Air Dried)	3.0 / 3.5	0.360 / 0.420

Affected Facility	Daily Weighted Average VOC Emission Limitation	
	Lbs. per Gal. of Coating as applied (minus water and exempt solvent)	Kgs. per Liter of Coating as applied (minus water and exempt solvent)
2. Surface Coating of Cans		
Sheet Basecoat (exterior and interior) and over-varnish: Two-piece can exterior (basecoat and over-varnish)	2.8	0.34
Two and three-piece can interior body spray, two-piece can exterior end (spray or roll coat)	4.2	0.51
Three-piece can side-seam spray	5.5	0.66
End sealing compound	3.7	0.44
3. Surface Coating of Coils		
Prime and topcoat or single coat operation	2.6	0.31
4. Surface Coating of Fabrics		
Fabric Facility	2.9	0.35
Vinyl Coating Line (except Plasticoat coatings)	3.8	0.45
5. Surface Coating of Assembly Line Automobiles and Light Duty Trucks		
Prime application, flashoff area and oven (determined on a monthly basis)	1.2	0.14
Primer surface application flashoff area and oven	2.8	0.34
Topcoat application, flashoff area and oven	2.8	0.34
Final repair application, flashoff area and oven	4.8	0.58
As an alternative to the emission limitation of 2.8 pounds of VOC per gallon of coating applied for the primer surfacer and/or topcoat application, compliance with these emission limitations may be demonstrated by meeting a standard of 15.1 pounds of VOC per gallon of solids deposited.		
6. Surface Coating—Magnet Wire Coating		
Coating Line	1.7	0.20
7. Surface Coating of Metal Furniture		
General, One Component (Baked/Air Dried)	2.3 / 2.3	0.275 / 0.275
General, Multi-Component (Baked/Air Dried)	2.3 / 2.8	0.275 / 0.340
Extreme High Gloss (Baked/Air Dried)	3.0 / 2.8	0.360 / 0.340
Extreme Performance (Baked/Air Dried)	3.0 / 3.5	0.360 / 0.420
Heat Resistant (Baked/Air Dried)	3.0 / 3.5	0.360 / 0.420
Metallic (Baked/Air Dried)	3.5 / 3.5	0.420 / 0.420
Pretreatment Coatings (Baked/Air Dried)	3.5 / 3.5	0.420 / 0.420
Solar Absorbent (Baked/Air Dried)	3.0 / 3.5	0.360 / 0.420
8. Surface Coating of Miscellaneous Metal Parts and Products		
Clear Coat	4.3	0.52
Air or force air dried items (not oven dried)	3.5	0.42
Frequent color change and/or large numbers of colors applied, or first coat on untreated ferrous substrate	3.0	0.36
Outdoor or harsh exposure or extreme performance characteristics	3.5	0.42
No or infrequent color change, or small number of colors applied:		
a. Powder Coating	0.4	0.05
b. Other	3.0	0.36
These limits do not apply to operations covered in 1-7 or 10 herein or exterior coating of fully assembled aircraft, auto refinishing, and auto customizing topcoating (processing less than 35 vehicles per day).		

Affected Facility	Daily Weighted Average VOC Emission Limitation	
	Lbs. per Gal. of Coating as applied (minus water and exempt solvent)	Kgs. per Liter of Coating as applied (minus water and exempt solvent)
9. Factory Surface Coating of Flat Wood Paneling with VOC Emissions Greater Than 15 Pounds Per Day Before Controls		
All Inks, Coatings, and Adhesives	2.1	0.25
10. Surface Coating for Marine Vessels and Oilfield Tubulars and Ancillary Oilfield Equipment		
a. Except as otherwise provided in this Section, a person shall not apply a marine coating with a VOC content in excess of the following limits:		
Baked Coatings	3.5	0.42
Air-Dried Single-Component Alkyd or Vinyl Flat or Semi Gloss Finish Coatings	3.5	0.42
Two Component Coatings	3.5	0.42
b. Except for the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge, in which the VOC limitations in Subparagraph C.10.a of this Section may not be exceeded, specialty marine coatings and coatings on oilfield tubulars and ancillary oilfield equipment with a VOC content not in excess of the following limits may be applied:		
Heat Resistant	3.5	0.42
Metallic Heat Resistant	4.42	0.53
High Temperature (Fed. Spec. TT-P-28)	5.41	0.65
Pre-Treatment Wash Primer	6.5	0.78
Underwater Weapon	3.5	0.42
Elastomeric Adhesives With 15 Percent Weight Natural or Synthetic Rubber	6.08	0.73
Solvent-Based Inorganic Zinc Primer	5.41	0.65
Pre-Construction and Interior Primer	3.5	0.42
Exterior Epoxy Primer	3.5	0.42
Navigational Aids	3.5	0.42
Sealant for Wire-Sprayed Aluminum	5.4	0.648
Special Marking	4.08	0.49
Tack Coat (Epoxies)	5.08	0.61
Low Activation Interior Coating	4.08	0.49
Repair and Maintenance Thermoplastic	5.41	0.65
Extreme High Gloss Coating	4.08	0.49
Antenna Coating	4.42	0.53
Antifoulant	3.66	0.44
High Gloss Alkyd	3.5	0.42
Anchor Chain Asphalt Varnish (Fed. Spec. TT-V-51)	5.2	0.62
Wood Spar Varnish (Fed. Spec. TT-V-119)	4.1	0.492
Dull Black Finish Coating (DOD-P-15146)	3.7	0.444
Tank Coatings (DOD-P-23236)	3.5	0.42
Potable Water Tank Coating (DOD-P-23236)	3.7	0.444
Flight Deck Markings (DOD-C-24667)	4.2	0.504
Vinyl Acrylic Top Coats	5.4	0.648
Antifoulant Applied to Aluminum Hulls	4.5	0.55
11. Paper, Film, Foil, Pressure Sensitive Tape, and Label Surface Coating	Daily Weighted Average VOC Emission Limitation	
	kg VOC/kg Solids (lb VOC/lb Solids)	kg VOC/kg Coating (lb VOC/lb Coating)
Paper, Film, and Foil	0.40	0.08
Pressure Sensitive Tape and Label	0.20	0.067

#### D. Control Techniques

1. If add-on controls such as incinerators or vapor recovery systems are used to comply with the emission limitation requirements, in terms of pounds per gallon of solids as applied (determined in accordance with Paragraph D.8 of this Section), the volatile organic compound capture and abatement system shall be at least 80 percent efficient overall (90 percent for factory surface coating of flat wood paneling). All surface coating facilities shall submit to the Office of Environmental Services, for approval, design data for each capture system and emission control device that is proposed for use. The effectiveness of the capture system (i.e., capture efficiency) shall be determined using the procedure specified in Paragraph E.6 of this Section.

2. If a person wishes to use low solvent technology to meet any of the emission limits specified in Subsection C of this Section and if the technology to be used for any particular application is not now proven but is expected to be proven in a reasonable length of time, he may request a compliance date extension from the administrative authority\*. Compliance date extensions will require progress reports every 90 days, or as directed, to show reasonable progress, as determined by the administrative authority, toward technology to meet the specified emission limitation.

3. ...

4. Compliance with the alternative emission limit established in Paragraph C.5 of this Section of 15.1 pounds of VOC per gallon of solids deposited shall be determined in accordance with EPA's "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light Duty Truck Topcoat Operations", EPA 450/3-88-018, December, 1988.

5. ...

6. Surface coating facilities on any property in Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes that when controlled have a potential to emit, at maximum production, a combined weight (total from the property) of VOCs less than 10 tons in any consecutive 12 calendar months are exempt from the provisions of Subsection C of this Section. Surface coating facilities on any property in parishes other than Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge that when uncontrolled have a potential to emit a combined weight of VOCs less than 100 pounds (45 kilograms) in any consecutive 24-hour period are exempt from the provisions of Subsection C of this Section. Any surface coating facility with VOC emissions of less than or equal to 15 pounds (6.8 kilograms) per day is exempt from the provisions of Paragraphs C.1, 8, and 11 of this Section.

7. Soldering and surface coating facilities or portions thereof, may request from the administrative authority\* exemption from the requirements of Subsection C of this Section if all of the following conditions are met:

7.a. - 9. ...

E. Testing. Compliance with Subsections A, C, and D of this Section shall be determined by applying the following test methods, as appropriate.

1. - 7. ...

F. Recordkeeping. The owner/operator of any surface coating facility shall maintain records at the facility to verify compliance with or exemption from this Section. The

records shall be maintained for at least two years and shall include, but not be limited to, the following:

1. records of any testing done in accordance with Subsection E of this Section;

2. records of the installation and maintenance of monitors to accurately measure and record operational parameters of all required control devices as necessary to ensure the proper functioning of those devices in accordance with the design specifications, including but not limited to:

2.a. - 4. ...

G. Mandatory Work Practices for Surface Coating of Flat Wood Paneling. The owner/operator of any facility performing factory surface coating of flat wood paneling shall comply with the following mandatory work practices:

1. store all VOC coatings, thinners, and cleaning materials in closed containers;

2. minimize spills and clean up spills immediately;

3. convey any coatings, thinners, and cleaning material in closed containers or pipes; and

4. close mixing vessels containing VOC coatings and other material except when specifically in use.

#### H. Definitions

*Air Dried Coating*—any coating that is cured at a temperature below 90°C (194°F).

*Baked Coating*—any coating that is cured at a temperature at or above 90°C (194°F).

*Extreme High Gloss Coating*—any coating that achieves at least 95 percent reflectance on a 60° meter when tested by ASTM Method D-523.

*Heat Resistant Coating*—any coating that during normal use must withstand temperatures of at least 204°C (400°F).

*High Gloss Coating*—any coating that achieves at least 85 percent reflectance on a 60° meter when tested by ASTM Method D-523.

*High Temperature Coating*—any coating that must withstand temperatures of at least 426°C (800°F).

*Marine Coating*—any coating, except unsaturated polyester resin (fiberglass) coatings, containing volatile organic materials and applied by brush, spray, roller, or other means to ships, boats, and their appurtenances, and to buoys and oil drilling rigs intended for the marine environment.

*Metallic Heat Resistant Coating*—any coating that contains more than 5 grams of metal particles per liter as applied and that must withstand temperatures over 80°C (175°F).

*Repair and Maintenance Thermoplastic Coating*—a resin-bearing coating in which the resin becomes pliable with the application of heat, such as vinyl, chlorinated rubber, or bituminous coatings.

I. Timing. A facility that has become subject to this regulation as a result of a revision of the regulation shall comply with the requirements of this Section as soon as practicable, but in no event later than one year from promulgation of the regulation revision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:23

(January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1240 (July 1999), LR 26:2453 (November 2000), LR 28:1765 (August 2002), LR 30:746 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:2086 (October 2007), LR 35:

## **Subchapter H. Graphic Arts**

### **§2143. Graphic Arts (Printing) by Rotogravure, Flexographic, Offset Lithographic, Letterpress, and Flexible Package Printing Processes**

#### **A. Control Requirements**

1. After [INSERT DATE ONE YEAR AFTER PROMULGATION], no person shall operate or allow the operation of a packaging rotogravure, publication rotogravure, or flexographic printing facility having a potential to emit 25 TPY or more of VOC in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge; having a potential to emit 50 TPY or more of VOC in the parishes of Calcasieu and Pointe Coupee; or having a potential to emit 100 TPY or more of VOC in any other parish, unless VOC emissions are controlled by one of the methods in Subparagraphs A.1.a-d of this Section. This requirement applies to affected machines on which both surface coating and printing operations are performed. Line-by-line compliance with these emission limits or control requirements is required. Any cross-line averaging or bubbling must receive approval from the administrative authority\*. Once a facility is subject to the provisions of this Section, it remains so regardless of future variations in production.

a. The solvent fraction of ink, as it is applied to the substrate, less exempt solvent, shall contain 25 volume percent or less of organic solvent and 75 volume percent or more of water. Also acceptable as an alternative limit is ink containing no more than 0.5 pounds of volatile organic compounds per pound of solids. Exempt solvents are those compounds listed in LAC 33:III.2117.

b. A volatile organic compound adsorption or incineration system shall have at least 95 percent (by weight) control efficiency across the control device, which can be demonstrated to have an overall capture and abatement reduction of at least 85 percent.

c. The ink as it is applied to the substrate, less water and exempt solvent, shall contain 60 percent by volume or more of nonvolatile material.

d. Another control method approved by the administrative authority\* may be employed.

2. After [INSERT DATE ONE YEAR AFTER PROMULGATION], no person shall operate or allow the operation of a flexible package printing facility having a potential to emit 25 TPY or more of VOC in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge; having a potential to emit 50 TPY or more of VOC in the parishes of Calcasieu and Pointe Coupee; or having a potential to emit 100 TPY or more of VOC in any other parish, unless VOC emissions are controlled to the applicable control efficiency specified in Subparagraphs A.2.a-d or e of this Section. Once a piece of equipment is subject to the provisions of this Section, it remains so regardless of future variations in production or transfers to different locations.

a. A press that was first installed prior to March 14, 1995, and that is controlled by an add-on air pollution

control device (APCD) whose first installation was prior to December 20, 1987, shall have 65 percent control efficiency.

b. A press that was first installed prior to March 14, 1995, and that is controlled by an add-on APCD whose first installation was on or after December 20, 1987, shall have 70 percent control efficiency.

c. A press that was first installed on or after March 14, 1995, and that is controlled by an APCD whose first installation was prior to December 20, 1987, shall have 75 percent control efficiency.

d. A press that was first installed on or after March 14, 1995, and that is controlled by an add-on APCD whose first installation was on or after December 20, 1987, shall have 80 percent control efficiency.

e. As an alternative to Subparagraph A.2.a, b, c, or d, a facility shall meet the average VOC content limit on a single press of 0.8 kg VOC/kg solids applied or 0.16 kg VOC/kg materials applied.

3. After [INSERT DATE ONE YEAR AFTER PROMULGATION], no person shall operate or allow the operation of an offset lithographic or letterpress printing facility having a potential to emit 25 TPY or more of VOC in the parish of Ascension, East Baton Rouge, Iberville, Livingston, or West Baton Rouge; having a potential to emit 50 TPY or more of VOC in the parish of Calcasieu or Pointe Coupee; or having a potential to emit 100 TPY or more of VOC in any other parish, unless VOC emissions are controlled by one of the methods in Subparagraphs A.3.a-c of this Section. Once a facility is subject to the provisions of this Section, it remains so regardless of future variations in production. Determination of potential to emit, for the purposes of applicability, shall be made without respect to any VOC control device.

a. Control for heatset web offset lithographic processes, letterpress dryers, and the volatilization of inks in a letterpress dryer shall be accomplished by:

i. a control device with at least 90 percent control efficiency for control devices installed prior to [INSERT DATE OF PROMULGATION]. The installation date does not change if the control device is later used to control a new or different press;

ii. a control device with at least 95 percent control efficiency for control devices installed on or after [INSERT DATE OF PROMULGATION]; or

iii. a control device that limits the control device outlet concentration to 20 ppmv or less as hexane on a dry basis.

b. Control for offset lithographic fountain solution processes emitting more than 15 pounds per day shall be accomplished as follows:

i. heatset printing—limit the amount of alcohol by weight to 1.6 percent or less;

ii. sheet-fed printing—limit the amount of alcohol by weight to 5 percent or less. Sheet-fed presses with sheet size of 11 x 17 inches or smaller or any press with a total fountain solution reservoir of less than 1 gallon are exempt;

iii. coldset printing—limit the amount of alcohol by weight to 5 percent or less as applied.

c. Another control method approved by the administrative authority\* may be employed.

4. Control for cleaning materials for those facilities where actual emissions from lithographic and letterpress

printing operations are greater than 15 pounds per day (before consideration of controls) shall be accomplished by one of the following methods.

a. Cleaning materials shall contain a VOC composite with a vapor pressure of less than 10 mm Hg (0.19 psi) at 20°C or contain less than 70 percent VOC by weight.

b. Cleaning materials and used shop towels shall be kept in closed containers except when actually in use.

c. For blanket washing, roller washing, plate cleaners, metering roller cleaners, impression cylinder cleaners, rubber rejuvenators, and other cleaners used for cleaning a press or press parts, or to remove dried ink around a press, any amount greater than 110 gallons of cleaning materials per year shall meet either the low VOC composite vapor pressure requirement or the lower VOC requirement.

5. Control for cleaning materials for those facilities where actual emissions from flexible package printing operations are greater than 15 pounds per day (before consideration of controls) shall be accomplished by one of the following methods.

a. Cleaning materials and used shop towels shall be kept in closed containers except when actually in use.

b. Cleaning materials shall be conveyed from one location to another in closed containers or pipes.

6. Control for cleaning materials for those facilities where actual emissions from printing operations are greater than 15 pounds per day (before consideration of controls) shall be accomplished by one of the following methods.

a. Cleaning materials and used shop towels shall be kept in closed containers except when actually in use.

b. For blanket washing, roller washing, plate cleaners, metering roller cleaners, impression cylinder cleaners, rubber rejuvenators, and other cleaners used for cleaning a press or press parts, or to remove dried ink around a press, any amount greater than 110 gallons of cleaning materials per year shall meet either the low VOC composite vapor pressure requirement or the lower VOC requirement.

#### B. Exemptions

1. For those facilities where actual emissions from packaging rotogravure and publication rotogravure printing operations are greater than 15 pounds per day (before consideration of controls) and where the potential to emit is less than 25 TPY of VOC on a per press basis before controls, only the cleaning materials control requirements in Paragraph A.6 of this Section are applicable.

2. The following equipment or processes are exempt from meeting the requirements of Paragraph A.6 of this Section:

a. heatset web offset lithographic printing operations and heatset web letterpress printing operations with the potential to emit from the dryer, prior to controls, an amount equal to or less than 25 tons VOC (petroleum ink oil) per year, provided that an enforceable limit on potential emissions is obtained to keep an individual heatset press below the 25 TPY potential to emit threshold;

b. heatset presses used for book printing and presses with a maximum web width of less than or equal to 22 inches; and

c. operations with emissions from sheet-fed or coldset webinks, sheet-fed or coldset varnishes, waterborne coatings, and radiation cured materials.

C. - E. ...

F. Operating, Monitoring, and Maintenance Procedures. Operating, monitoring, and maintenance procedures for the facilities and equipment subject to the requirements of this Section shall be incorporated into the housekeeping plan required by LAC 33:III.2113.A.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:964 (November 1990), LR 18:1123 (October 1992), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1796 (October 1999), LR 28:1765 (August 2002), LR 30:746 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1892 (September 2008), LR 35:

#### Family Impact Statement

This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on January 27, 2009, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the State Implementation Plan (SIP) to incorporate this proposed Rule. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Christopher A. Ratcliff at the address given below or at (225) 219-3471. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ296. Such comments must be received no later than February 3, 2009, at 4:30 p.m., and should be sent to Christopher A. Ratcliff, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to [chris.ratcliff@la.gov](mailto:chris.ratcliff@la.gov). Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ296. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM  
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Control Technology Guidelines**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no expected implementation costs or savings to state or local governmental units from the proposed rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No effect on revenue collections of state or local governmental units is expected as a result of the proposed rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Based on the comments received from the Advanced Notice of Rulemaking, there are minimal estimated costs or economic benefits to directly affected persons or non-governmental groups from the proposed rule. The proposed changes, which are consistent with Control Technology Guideline recommendations provided by EPA and which will be included in the State Implementation Plan to meet federal Clean Air Act requirements, are primarily incremental and are not anticipated to result in a significant impact to industry.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition or employment by the proposed rule.

Herman Robinson, CPM  
Executive Counsel  
0812#071

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division**

**Statutory Exemption for Air Permits  
(LAC 33:III.501) (AQ270)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.501 (Log #AQ270).

Act 547 of the 2008 Regular Session of the Louisiana Legislature provides for exemptions from permitting requirements for certain air emissions sources by enacting R.S. 30:2054(B)(2)(b)(ix). The exemption applies to any source for which facility-wide potential emissions are less than 5 tons per year for each of any regulated air pollutant as defined by the Clean Air Act, 42 U.S.C. 7401 et seq., less than 15 tons per year emitted of all such defined pollutants combined, and less than the minimum emission rate for each toxic air pollutant established pursuant to R.S. 30:2060, unless such source is required to obtain a permit pursuant to the Clean Air Act, 42 U.S.C. 7661 et seq. The Statute also states, "for purposes of this Item, "potential emissions" shall mean the emissions the facility is capable of emitting considering all control measures in place, utilized and properly maintained and historical practices, including hours of operation and number of employees at the facility." This

Rule will add the statutory exemption to the air quality regulations (LAC 33:III). The basis and rationale for this proposed rule are to add the statutory exemption from the requirement to obtain an air permit to the air quality regulations. This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33  
ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 5. Permit Procedures**

**§501. Scope and Applicability**

**A. - B.1.d. ...**

2. Statutory Exemptions. The requirement to obtain a permit in accordance with this Chapter does not apply to:

**a. ...**

b. controlled burning of agricultural by-products in the field or of cotton gin agricultural wastes;

c. controlled burning in connection with timber stand management, or of pastureland or marshland in connection with trapping or livestock production; or

d. any source that is not a *Part 70 source*, as defined in LAC 33:III.502, and for which:

**i. facility-wide potential emissions are less than:**

(a). 5 tons per year for each of any regulated air pollutant as defined by the Clean Air Act;

(b). 15 tons per year of all such defined pollutants combined; and

(c). the minimum emission rate (MER) for each toxic air pollutant established by Tables 51.1 and 51.3 of LAC 33:III.Chapter 51; and

ii. for purposes of this exemption, any physical limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment, shall be treated as part of its design.

**B.3. - C.13. ...**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2011 and 2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842 (October 2006), LR 33:2082 (October 2007), LR 33:2626 (December 2007), LR 35:

**Family Impact Statement**

This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on January 27, 2009, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals

with a disability need an accommodation in order to participate, contact Christopher A. Ratcliff at the address given below or at (225) 219-3471. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ270. Such comments must be received no later than February 3, 2009, at 4:30 p.m., and should be sent to Christopher A. Ratcliff, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to [chris.ratcliff@la.gov](mailto:chris.ratcliff@la.gov). Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ270. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM  
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Statutory Exemption for Air Permits**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There will be no costs or savings to state or local governmental units as a result of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
All facilities with air emissions less than the thresholds established by R.S. 30:2054(B)(2)(b)(ix) will be affected by the proposed action. However, no significant effect on costs and/or economic benefits to directly affected persons or non-governmental groups is expected. The proposed rule would merely add the statutory exemption to the state's air quality regulations.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition; no effect on employment in the public or private sector will be realized.

Herman Robinson, CPM  
Executive Counsel  
0812#072

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Medical Examiners**

Consultation and Collaboration with Medical Psychologists  
(LAC 46:XLV.Chapter 72)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (oard), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1270(A)(1), 1270(B), the Louisiana Psychology Practice Act, as amended during the 2004 Session of the Louisiana Legislature by Acts 2004, Number 11, R.S. 37:2371-2378, and in accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., intends to amend LAC Title 46:XLV, Subpart 3, by adding Chapter 72, §§7201-7217, to govern the practice of physicians who engage in consultation and collaboration with medical psychologists with respect to a patient of the physician. The proposed Rules are set forth below.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLV. Medical Profession  
Subpart 3. Practice**

**Chapter 72. Consultation or Collaboration with  
Medical Psychologists**

**Subchapter A. General Provisions**

**§7201. Preamble and Scope of Subchapter**

A. Pursuant to Act 11 of the 2004 session of the Louisiana Legislature, the Louisiana Psychology Practice Act was amended to include, among other items, R.S. 37:2375C(1), which provides: "A medical psychologist holding a valid certificate to prescribe shall prescribe only in consultation and collaboration with the patient's primary or attending physician, and with the concurrence of that physician. The medical psychologist shall also re-consult with the patient's physician prior to making changes in the patient's medication regimen, including dosage adjustments, adding or discontinuing a medication. The medical psychologist and the physician shall document the consultation in the patient's medical record."

B. Pursuant to the authority granted by R.S. 37:1270(B)(6), and in the interest of promoting the public health, safety, and welfare, the rules of this Chapter are adopted by the Louisiana State Board of Medical Examiners to govern the practice of physicians in this state who consult and collaborate with a medical psychologist with respect to a patient of the physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

**§7203. Definitions**

A. As used in this Chapter, the following words and terms shall have the meanings specified.

*Active Clinical Relationship*—shall mean that the physician has seen the patient professionally *e.g.*, examined, diagnosed and/or treated the patient within the past 12 months.

*Board*—the Louisiana State Board of Medical Examiners, as constituted in the Act.

*Concurrence or Concur*—a physician's agreement to a plan for psychopharmacological management of a patient based on prior discussion with an MP.

*Consultation and Collaboration with an MP or Consult and/or Collaborate*—that practice in which a physician discusses and, if deemed appropriate, concurs in an MP's plan for psychopharmacologic management of a patient for whom the physician is the primary or attending physician.

*Controlled Substance*—any substance defined, enumerated, or included in federal or state statute or regulations 21 C.F.R. 1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations or statute.

*Discussion*—a conversation between a physician and a medical psychologist conducted in person, by telephone or through another telecommunications device.

*Drug*—shall mean the same as the term "drug" as defined in R.S. 40:961(16), including controlled substances except narcotics, but shall be limited to only those agents related to the diagnosis and treatment of mental and emotional disorders as defined in R.S. 37:2352(5).

*Medical Practice Act or the Act*—R.S. 37:1261-92 as may be amended from time to time.

*Medication*—is synonymous with *drug*, as defined herein.

*Medical Psychologist or MP*—a psychologist who has undergone specialized training in clinical psychopharmacology who has passed a national proficiency examination in psychopharmacology approved by the Louisiana State Board of Examiners of Psychologists and who holds a current certificate of responsibility from the Louisiana State Board of Examiners of Psychologists to prescribe medication.

*Narcotics*—natural and synthetic opioid analgesics, and their derivatives used to relieve pain.

*Physician*—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a current license duly issued by the board.

*Primary or Attending Physician*—a physician who has an active clinical relationship with a patient and is: principally responsible for the health care needs of the patient; or currently attending to the health care needs of the patient; or considered by the patient to be his or her primary or attending physician.

*Psychopharmacologic Management*—the treatment and/or management of mental or emotional disorders with medication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

#### **§7205. General Conditions**

A. A physician shall only consult and collaborate with an MP provided such is performed in the course of his or her professional practice, documented in the patient's medical record, and in compliance with all of the requirements specified by this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

#### **§7207. General Prohibitions**

- A. A physician shall not consult and collaborate:
1. if the physician is no longer engaged in the clinical practice of medicine and the provision of patient care in this state;
  2. on any patient for whom the physician is not the primary or attending physician;
  3. with a psychologist who is not an MP;
  4. with more than one MP on the same patient;
  5. if he or she is aware that more than one primary or attending physician is consulting or collaborating with the MP on the same patient at the same time;
  6. with respect to the treatment of any condition other than mental and emotional disorders;
  7. with respect to controlled substances if the physician's controlled substance privileges, registration or permit has been suspended, revoked or restricted by the board or other state or federal authorities;
  8. with respect to narcotics; or
  9. with an MP who seeks to utilize controlled substances for the treatment of:
    - a. non-cancer related chronic or intractable pain, as set forth in §§6915-6923 of the board's rules; or
    - b. obesity, as set forth in §§6901-6913 of the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

#### **§7209. Authority, Responsibility and Limitations**

A. Consultation and Collaboration. Consultation and collaboration shall include discussion of any item the physician considers relevant to the coordination of the patient's medical care or evaluation of the psychopharmacologic management planned by the MP. The physician's consultation shall be documented in the patient's medical record and include, at a minimum:

1. Patient Authorization. A physician shall not consult and collaborate without the patient's written authorization to provide and/or receive from the MP any documents or records the physician may deem necessary throughout the course of psychopharmacologic management. A physician shall either obtain such authorization directly or document the MP's verification that the MP has done so and request and obtain a copy for his medical record on the patient;
2. Patient Identity, Date and Parties. The patient's name, current addresses and telephone number; the date of the consult; and the MP's name and telephone number shall be clearly identified. The physician shall also verify that the MP holds a current certificate of prescriptive authority;
3. Purpose. The purpose for the consult (*e.g.*, new medication; change in medication; discontinuance of medication; adverse treatment effects; treatment failure; change in mental status; etc.);
4. Psychological Evaluation and Diagnosis. The MP's psychological evaluation of the patient, including any relevant psychological history, laboratory or diagnostic studies; the MP's psychological diagnosis; and any other

information the physician may deem necessary for the coordination of medical care of the patient;

5. Medication. The specific drug(s) the MP plans to utilize, including the starting dosage and titration plan, if any; frequency of use; the number of refills and anticipated duration of therapy; relevant indications and contraindications; any previously utilized psychopharmacologic therapy; and any alternatives;

6. Treatment Plan. The MP's treatment and/or management plan for the patient, including the intended role of medication within such plan;

7. Results of Consultation. The results of the consultation (e.g., concurrence, deferring or denying medication recommended by the MP);

8. Responsibilities. Any specific responsibilities of the physician and MP respecting the patient's care;

9. Reporting. Any reporting and documentation requirements the physician may request of the MP and/or a schedule by which such are to take place; and

10. Immediate Consultation. A plan to accommodate immediate consultation between the physician, MP and/or the patient.

B. Denying or Deferring Concurrence. If, following discussion, the physician does not concur or believes that there is a need for further medical evaluation or information before concurring in the psychopharmacologic management planned by the MP (e.g., that the patient may be suffering from a condition that may be primarily physiological; physician assessment or additional laboratory or diagnostic testing is indicated; information has been requested from the MP or the patient for prior review; etc.), the physician shall deny concurrence of the psychopharmacologic management planned by the MP or shall defer concurrence until and unless the physician determines that such is appropriate for the patient.

C. Concurrence in Psychopharmacologic Management. Upon completion and satisfaction of the conditions prescribed in Subsection 7209.A of this Section, and upon a physician's judgment that the psychopharmacologic management planned by an MP is medically appropriate, the physician may concur. Thereafter, continued coordination of the patient's medical care shall include consultation and collaboration and other activities as the physician may deem appropriate including, but not limited to, the following:

1. Assessment of Treatment Efficacy. A physician shall see any patient subject to consultation or collaboration with an MP at least once every 12 months to assess the medical efficacy of the treatment and assure such treatment remains medically indicated. In the event the psychopharmacologic management includes a Schedule II or III controlled substance, the physician shall see the patient at least once every 6 months.

2. Treatment records. A physician shall document and maintain in the medical record of a patient subject to consultation and collaboration:

a. accurate and complete records of all consultations with the MP including, but not limited to each of the items specified in 7209.A;

b. copies of all consultations and documentation received from the MP; and

c. history, physical and other examinations and evaluations, consultations, laboratory and diagnostic reports,

diagnoses, treatment plans and objectives, psychopharmacologic and other medication therapy, informed consents, and the results of periodic assessments and reviews.

D. Responsibility for Treatment. A physician shall retain professional responsibility to his or her patients for consultation and collaboration with an MP.

E. Consultation or collaboration with an MP is personal to the physician. A physician shall not authorize a non-physician to consult with an MP on his or her behalf.

F. Consultation and Collaboration. All adjustments or changes in the patient's medication subsequent to initial concurrence of psychopharmacologic management, including dosage adjustments or adding or discontinuing a medication, shall be preceded by consultation and collaboration with the MP that includes, but is not limited to, updating the information required by Subsection 7209.A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

#### **§7211. Withdrawal or Termination of Concurrence**

A. A physician shall notify an MP and his patient in a timely manner that he or she has withdrawn or terminated concurrence if:

1. the physician determines that the medication prescribed is no longer appropriate or is contraindicated;

2. the physician receives information indicating that the patient is non-compliant with the treatment prescribed;

3. the MP fails or refuses to provide requested documentation or other information that may impact the physician's decision to concur or continue to concur in the psychopharmacologic management planned by the MP;

4. adjustments or changes were made to the patient's psychopharmacologic management by the MP without consultation and collaboration;

5. the physician receives information indicating that the patient is misusing the medication prescribed;

6. the physician becomes aware of information that would prohibit consultation and collaboration under Section 7207 of this Chapter;

7. the physician is advised of the patient's election to withdraw from psychopharmacologic management by an MP, or to withdraw his or her authority for the physician or the MP to consult and collaborate;

8. the physician retires or withdraws from clinical practice in this state or relocates his or her practice to a location that would render continuing care of the patient impractical; or

9. the physician's license is suspended, revoked or restricted in a manner that would prohibit consulting and collaborating with an MP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

#### **§7213. Informed Consent**

A. A physician shall not consult and collaborate with an MP without the patient's written authorization.

B. A physician shall insure that each of his or her patients subject to consultation and collaboration with an MP is informed:

1. of the relationship between the physician and MP and the respective role of each with respect to the patient's psychopharmacologic management;

2. that he or she may decline to participate in such a practice and may withdraw at any time without terminating the physician-patient relationship;

3. of the physician's decision to deny or withdraw from consultation and collaboration with an MP; and

4. by written disclosure, of any contractual or financial arrangement that may impact the physician's decision to engage in consultation and collaboration with an MP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

#### **§7215. Reporting Obligations**

A. A physician who consults and collaborates with an MP should report to the board, as well as the Louisiana State Board of Examiners of Psychologists, all instances in which he or she has a good faith reason to believe that the MP has:

1. failed to consult with the primary or attending physician prior to prescribing medication or making any adjustments or changes in an established medication regimen;

2. prescribed a narcotic, as defined in R.S. 40:961;

3. treated any condition, illness or disease other than management of mental or emotional disorders; or

4. prescribed a course of medication that resulted in the injury or death of a patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

#### **§7217. Action against Medical License**

A. Any violation or failure to comply with the provisions of this Chapter shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30), respectively, as well as violation of any other applicable provision of R.S. 37:1285(A), providing cause for the board to suspend, revoke, refuse to issue or impose probationary or other restrictions on any license held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

#### **Family Impact Statement**

The proposed rules have no known impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Interested persons may submit written data, views, arguments, information or comments on the proposed rules to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, at Post Office Box 30250, New Orleans, Louisiana, 70190-0250 (630 Camp Street, New Orleans, Louisiana, 70130), (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4:00 p.m., January 19, 2009. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the Board within 20 days of the date

of this notice. Should it become necessary to convene a public hearing to receive data, views, arguments, information or comments orally, in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on January 26, 2009, at 10:00 a. m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA. Any person wishing to attend the public hearing should call to confirm that a hearing will be held.

Robert L. Marier, M.D.  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Consultation and Collaboration with Medical Psychologists**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Other than notice and rule publication costs, estimated at a combined total of \$1,113.75, which costs will be absorbed within the Board's budget during FY 2008 and FY 2009, it is not anticipated that the proposed rules will result in additional costs or savings to the Board or any state or local governmental unit.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on the Board's revenue collections or those of any other state or governmental unit.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The Board does not anticipate that implementation of the proposed Rules will have any adverse costs and/or economic impact on physicians who consult or collaborate with medical psychologists. Nor is it anticipated that the proposed rules will result in any material increase or reduction in workload or additional paperwork for applicants, licensees, or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is not anticipated that the proposed Rules will have any material impact on competition or employment in either the public or private sector.

Robert Marier, M.D.  
Executive Director  
0812#090

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Board of Medical Examiners**

Physician Licensure and Certification;  
Short-Term Training Permit  
(LAC 46:XLV.411)

Notice is hereby given that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and in accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., intends to amend its Rules governing physicians, LAC 46:XLV, Subpart 2, Licensure and Certification, Chapter 3 (Physicians), Subchapter H (Restricted Licensure,

Permits), Section 411, to provide for an institutional temporary permit that would allow international medical graduates to participate in a short-term residency or other short-term postgraduate training program conducted at a medical school or major teaching hospital in this state.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XLV. Medical Professions**

#### **Subpart 2. Licensure and Certification**

#### **Chapter 3. Physicians**

#### **Subchapter H. Restricted Licensure, Permits**

#### **§411. Graduate Education Temporary Permit/Short-Term IMG Training Permit**

A. - I. ...

J. Short-Term IMG Training Permit. The board may, in its discretion, issue an institutional temporary permit for the purpose of participating in a short-term residency or other postgraduate training program (*short-term training permit*) conducted by a Louisiana medical school or a major teaching hospital, as defined herein, to an IMG applicant who possesses the qualifications prescribed by B.1-4 of this Section, provided that:

1. the applicant has not held any permit issued under this Chapter within one year prior to the date of application;

2. the postgraduate training program is approved in advance by the board;

3. the applicant presents, or causes to be presented to the board:

a. a completed application upon a form provided by the board, together with the fees prescribed by Chapter 1 of these rules. An application form will be supplied by the board only after receipt of a written commitment signed by the program director under whom the applicant will train in the postgraduate training program describing the capacity in which the applicant will be training and the inclusive dates of such training; and

b. satisfactory documentation that the applicant possesses the qualifications required by this Subsection;

4. an IMG holding a permit under this Subsection shall not assume independent responsibility for patient care in the state of Louisiana, and shall only receive postgraduate training in this state:

a. within the postgraduate training program for which he or she is approved by the board; and

b. under the immediate supervision (*e.g.*, in the physical presence) of a Louisiana licensed physician who has been appointed or designated by the medical school or major teaching hospital;

5. a permit issued under this Subsection shall expire and thereby become null, void and to no effect on the date specified by such permit or three months from the date of its issuance, whichever period is the shortest. Such permit shall also expire on any date that the permittee's appointment to the designated postgraduate training program is terminated;

6. a short-term training permit which has expired may, at the board's discretion, be renewed or reissued for not more than one successive three month period commencing without interruption immediately following the initial expiring permit, provided all requirements prerequisite to initial permit issuance have been met to the board's satisfaction;

7. the board may refuse to issue or revoke a short-term training permit for any of the causes that it may deny issuance of licensure under R.S. 37:1285A, or for which it may revoke a permit pursuant to 411J.8 of this Subsection;

8. a short-term training permit may be revoked by the board:

a. for any of the causes specified by R.S. 37:1285A;

b. upon a finding by the board that the permittee has failed to maintain, or did not possess at the time of application, any of the qualifications requisite to eligibility for a permit as prescribed by this Subsection; or

c. upon a finding by the board that the permittee has exceeded the scope of authority accorded by the permit or otherwise violated any of the conditions, restrictions, and limitations prescribed by this Subsection;

9. an IMG whose short-term training permit has been revoked by the board shall not thereafter be eligible for any other permit or a license to practice medicine in this state.

K. The term *major teaching hospital*, as used in Subsection J of this Section, means a facility that:

1. has a documented affiliation agreement with a Louisiana medical school accredited by the Liaison Committee on Medical Education. The facility must be a major participant in at least four approved medical residency programs. At least two of the programs must be in medicine, surgery, obstetrics/gynecology, pediatrics, family practice, emergency medicine or psychiatry. For purposes of recognition as a major teaching hospital, a facility shall be considered a *major participant* in a graduate medical education program if it meets both of the following criteria:

a. the facility must pay for the costs of the training program in the non-hospital or hospital setting including the residents' salaries and fringe benefits attributable to direct graduate medical education and other direct administrative costs of the program; and

b. the facility must participate in residency programs that:

i. require residents to rotate for a required experience, or

ii. require explicit approval by the appropriate Residency Review Committee of the medical school with which the facility is affiliated prior to utilization of the facility, or

iii. provide residency rotations of more than one-sixth of the program length or more than a total of six months at the facility and are listed as part of an accredited program in the Graduate Medical Education Directory of the Accreditation Council for Graduate Medical Education.

2. maintains an intern and resident full time equivalency of at least 15 filled positions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A), 37:1270(B)(6), 37:1275, 37:1277 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:467 (May 1995), amended LR 27:846 (June 2001), LR 35:

#### **Family Impact Statement**

The proposed Rule amendments have no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule amendments to Rita Arceneaux, Confidential Executive

Assistant, Louisiana State Board of Medical Examiners, at Post Office Box 30250, New Orleans, LA, 70190-0250 (630 Camp Street, New Orleans, LA, 70130), (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4:00 p.m., January 19, 2009. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the Board within 20 days of the date of this notice. Should it become necessary to convene a public hearing to receive data, views, arguments, information or comments orally, in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on January 26, 2009, at 10:30 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA. Any person wishing to attend the public hearing should call to confirm that a hearing will be held.

Robert L. Marier, M.D.  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE:—Physician Licensure and Certification;  
Short-Term Training Permit**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The Board of Medical Examiners anticipates devoting some administrative resources to processing permit applications. Inasmuch as the number of physicians who may seek a permit is unknown, but believed to be relatively small in number, any modest increase in administrative workload will be absorbed by existing personnel. Accordingly, other than notice/rule publication costs estimated at a combined total of \$289, which will be absorbed within the Board's budget during FY 2008 and FY 2009, it is not anticipated that the proposed rule amendments will result in any additional costs or savings to the Board or any other state or local governmental unit.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of the proposed rule amendments will generate additional fees of \$100 for initial permit issuance. Permit renewal is available but unanticipated. Given the permit restrictions and the limited number of facilities at which international medical graduates may train, it is anticipated that the number of applicants will be small. There is no known available data respecting the number of individuals who may apply for a short-term training permit. Based on the interest expressed by medical schools and major teaching hospitals soliciting information from the Board, it is estimated that at least 10 applicants will apply the initial year the permit is offered, increasing by 10 applicants for each of the next two years thereby resulting in additional revenues for combined initial/renewal certification of \$1,000 (10 applicants) for FY 2009, \$2,000 (20 applicants) for FY 2010, and \$3,000 (30 applicants) for FY 2011. Accordingly, no material effect on the Board's revenue collections or those of any other state or governmental unit is anticipated.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

The proposed rule amendments would permit an international medical graduate to participate in a short-term residency or other postgraduate training program conducted by

a Louisiana medical school or a major teaching hospital. Aside from an application form supplied by the Board for initial permit issuance and/or renewal, and an initial permit/renewal fee of \$100, it is not anticipated that the proposed rule amendments will have any material effect on costs, paperwork or workload of physicians or applicants. The Board does not anticipate that implementation of the proposed Rule amendments will have any adverse costs and/or economic impact on applicants, licensees or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

It is not anticipated that the proposed rule amendments will have any material impact on competition or employment in either the public or private sector.

Robert Marier, M.D.  
Executive Director  
0812#091

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers  
New Opportunities Waiver  
Skilled Nursing Services Rate Increase  
(LAC 50:XXI.14301)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities proposes to amend LAC 50:XXI.14301 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services implemented a new home and community based services waiver, the New Opportunities Waiver (NOW), designed to enhance the support services available to individuals with developmental disabilities (*Louisiana Register*, Volume 30, Number 6). The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amended the provisions of the June 20, 2004, Rule governing the reimbursement methodology for the New Opportunities Waiver to implement a wage enhancement for direct support professionals who provide certain designated services to NOW recipients (*Louisiana Register*, Volume 34, Number 2).

During the 2008 Regular Session of the Louisiana Legislature, additional funds were allocated to the Department for the equalization of the reimbursement rates paid for skilled nursing services provided in the NOW program with the reimbursement rates paid for extended skilled nursing services provided under the Medicaid State Plan in the Home Health Program. As a result of the allocation of additional funds, the Department promulgated an Emergency Rule to amend the February 20, 2008 Rule governing the reimbursement methodology for the NOW to increase the reimbursement rates paid for skilled nursing services (*Louisiana Register*, Volume 34, Number 12). This proposed Rule is being promulgated to continue the provisions of the January 1, 2009 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by increasing the availability of skilled nursing services to recipients in the New Opportunities Waiver program.

The text of this Notice of Intent may be viewed in its entirety in the Declaration of Emergency section of this issue of the *Louisiana Register*.

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, Louisiana 70821-3117. She is the person responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, January 28, 2009 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Home and Community-Based Services Waivers—New Opportunities Waiver—Skilled Nursing Services Rate Increase**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$166,511 for FY 08-09, \$508,173 for FY 09-10, and \$579,589 for FY 10-11. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule.

##### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$419,547 FY 08-09, \$1,107,125 for FY 09-10, and \$1,262,717 for FY 10-11. It is anticipated that \$164 will be expended in FY 08-09 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

##### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule, which continues the provisions of the January 1, 2009 emergency rule, proposes to amend the provisions governing the reimbursement methodology for the New Opportunities Waiver (NOW) program to increase the reimbursement rates paid for skilled nursing services (approximately 4,938 recipients). It is anticipated that implementation of this proposed rule will increase program

expenditures in the NOW program by approximately \$585,730 for FY 08-09, \$1,615,298 for FY 09-10 and \$1,842,306 for FY 10-11.

##### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that implementation of this rule will have a positive effect on competition and employment by assisting providers to recruit and retain sufficient nurses to provide services to NOW participants.

Jerry Phillips  
Medicaid Director  
0812#075

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

#### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing**

#### **Minimum Licensing Standards for Emergency Medical Transportation Services (LAC 48:I.Chapter 60)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 48:I.Chapter 60 in the Medical Assistance Program as authorized by R.S. 36:254, R.S. 40:1231 and R.S.40:1235.1-1236.7, and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Acts 982 and 297 of the 1997 Regular Session of the Louisiana Legislature authorized the Department of Health and Hospitals to establish ambulance and emergency medical response vehicle certification requirements, including required medical and safety equipment which shall be carried aboard these vehicles. In compliance with Acts 982 and 297, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated provisions governing the certification standards for ambulances and emergency medical response vehicles (*Louisiana Register*, Volume 25, Number 4).

The Department now proposes to adopt provisions governing the minimum licensing standards for ambulance and emergency medical response vehicle services, including ground and air transportation. This proposed Rule will also clarify and repromulgate the provisions of the April 20, 1998 Rules for the purpose of adopting these provisions in a codified format for inclusion in the *Louisiana Administrative Code*.

#### **Title 48**

#### **PUBLIC HEALTH—GENERAL**

#### **Part I. General Administration Subpart 3. Health Standards**

#### **Chapter 60. Emergency Medical Transportation Services**

#### **Subchapter A. General Provisions**

#### **§6001. Definitions**

*Advanced Life Support (ALS)*—emergency medical care administered to at least the level of an emergency medical technician-paramedic's scope of practice.

*Air Ambulance*—any aircraft, either fixed-winged or rotary-winged, designed and operated as a part of a regular

course of conduct or business to transport a sick or injured individual, or which is advertised or otherwise held out to the public as such.

*Air Ambulance Service*—any person, firm, association, or government entity owning, controlling, or operating any business or service which furnishes, operates, conducts, maintains, advertises, engages in, proposes to engage in, or professes to engage in the business or service of transporting, in air ambulances, individuals who may need medical attention during transport.

*Ambulance*—any authorized emergency vehicle, equipped with warning devices, designed and operated as a part of a regular course of conduct or business to transport a sick or injured individual or which is advertised or otherwise held out to the public as such.

1. For purposes of these provisions, ambulance shall not mean a hearse or other funeral home vehicle utilized for the transportation of the dead.

*Ambulance Service or Ambulance Provider*—any person, firm, association, or government entity owning, controlling, or operating any business or service which furnishes, operates, conducts, maintains, advertises, engages in, proposes to engage in, or professes to engage in the business or service of transporting, in ambulances, individuals who may need medical attention during transport.

1. Ambulance services/providers shall not include any of the following:

- a. an agency of the federal government;
- b. a volunteer nonprofit organization or municipal nonprofit organization operating an invalid coach or coaches;
- c. an entity rendering assistance to a licensed ambulance or ambulances in the case of a major disaster;
- d. a licensed hospital providing nonemergency, noncritical, inter-hospital transfer and patient transportation for diagnostic and therapeutic purposes when such transportation originates at a licensed hospital;
- e. an entity operating an ambulance(s) from a location outside of the state to transport patients from a location outside of the state to a location inside the state or to transport a patient(s) from a medical facility inside of the state to a location outside of the state; or
- f. an entity providing transportation to employees, who become sick or injured during the course of their employment, from a job site to the nearest appropriate medical facility.

*Auto-Injector*—a spring-loaded needle and syringe with a single dose of epinephrine that will automatically release and inject the medicine.

*Basic Life Support (BLS)*—emergency medical care administered to the EMT-basic scope of practice.

*Bureau*—the Department of Health and Hospitals, Office of Public Health, Bureau of Emergency Medical Services.

*Certified Emergency Medical Technician*—an individual who is certified as any one of the following:

1. a certified emergency medical technician-basic;
2. a certified emergency medical technician-intermediate; or
3. a certified emergency medical technician-paramedic.

*Certified Emergency Medical Technician—Basic*—an individual who has successfully completed the emergency medical technician-basic training program adopted by the Bureau, who is nationally registered and who is certified by the bureau.

*Certified Emergency Medical Technician—Intermediate*—an individual who has successfully completed the emergency medical technician-intermediate training program adopted by the Bureau, who is nationally registered and who is certified by the bureau.

*Certified Emergency Medical Technician-Paramedic*—an individual who has successfully completed the emergency medical technician-paramedic training program adopted by the Bureau, who is nationally registered and who is certified by the bureau.

*Certified First Responder*—an individual who has successfully completed a training course adopted by the bureau for first responders and who is certified by the bureau.

*Change of Ownership (CHOW)*—the sale or transfer (whether by purchase, lease, gift or otherwise) of an ambulance service by a person/entity with controlling interest that results in a change of ownership, or control of 30 percent or greater of either the voting rights or assets of a provider, or that results in the acquiring person/corporation holding a 50 percent or greater interest in the ownership or control of the provider.

*Commission*—the Louisiana Emergency Medical Services Certification Commission.

*Department*—the Louisiana Department of Health and Hospitals (DHH).

*Emergency Medical Personnel or Emergency Service Person*—an individual who is a certified first responder or a certified emergency medical technician.

*Emergency Medical Response Vehicle*—a marked emergency vehicle with fully visual and/or audible warning signals, operated by a certified ambulance service, whose primary purpose is to respond to the scene of a medical emergency to provide emergency medical stabilization or support, command, control, and communications, but which is not an ambulance designed or intended for the purpose of transporting a victim from the scene to a medical facility, regardless of its designation.

1. Included are such vehicles referred to, but not limited to, the designation as "sprint car", "quick response vehicle", "special response vehicle", "triage trucks", "staff cars", "supervisor units", and other similar designations.

2. Emergency medical response vehicles shall not include fire apparatus and law enforcement patrol vehicles which carry first aid or emergency medical supplies, and which respond to medical emergencies as part of their routine duties.

*Emergency Medical Services (EMS)*—a system that represents the combined efforts of several professionals and agencies to provide pre-hospital emergency care to the sick and injured.

*EMS Professional*—an individual who is a certified first responder or certified emergency medical technician.

*EMS Task Force*—individuals appointed by the assistant secretary of the Office of Public Health who advise and

make recommendations to the office and the department on matters related to emergency medical services.

*Emergency Vehicle*—a vehicle that meets the definition of emergency vehicle in the Louisiana Highway Regulatory Act (LA R.S. 32:1).

*First Aid Certificate*—a certificate in the emergency response course issued by the American Red Cross or other certificate in a first aid course approved by the Bureau and issued to any individual who has successfully completed the required training and met the established standards of such organizations.

*Headquarters*—an ambulance service's center of operation and control.

*Industrial Ambulance*—any vehicle owned and operated by an industrial facility and used for transporting any employee who becomes sick, injured or otherwise incapacitated in the course and scope of his employment from a job site to an appropriate medical facility.

*Intermediate Life Support (ILS)*—emergency medical care administered to the EMT-Intermediate scope of practice.

*Moral Turpitude*—an act of baseness, vileness, or depravity in the duties which one person owes another, or to society in general, which is contrary to the usual, accepted and customary rule of right and duty which a person should follow.

*Municipal Nonprofit Organization*—an organization owned by a parish, municipality or entity of a parish or municipality which in its regular course of business responds to a call for help and renders medical treatment and whose attendants are emergency medical personnel, a registered nurse or a physician.

*Operational*—for an ambulance service to be considered operational, it must have a functional communications center (either owned and operated, or contracted) on duty 24 hours a day, 365 days a year. There must also be at least one staffed ambulance at the service's level of care on duty and able to respond to requests for service 24 hours a day, 365 days a year within the provider's service area unless excepted under other provisions of this Chapter.

*Physician*—a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners.

*V-MED 28*—the National Emergency Medical Services Mutual Aid (radio) frequency of 155.340 MHZ in the VHF broad band frequency spectrum.

*Volunteer Nonprofit Organization*—an organization which in its regular course of business responds to a call for help and renders medical treatment, whose attendants are emergency medical personnel, a registered nurse, or a physician and which is chartered as a nonprofit organization under Section 501c of the United States Internal Revenue Code, as a volunteer fire department by the Louisiana State Fire Marshal's Office, or as a nonprofit organization by the Louisiana secretary of state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

### **§6003. Licensing Requirements and Types of Licenses**

A. All ambulance services shall be licensed by the Department of Health and Hospitals (DHH). It shall be unlawful to operate or maintain an ambulance service in the state of Louisiana without possessing a license from the

Department. The Department of Health and Hospitals is the only licensing agency for ambulance services in the state of Louisiana.

B. No person, firm, corporation, association or government entity shall conduct, manage, operate, or maintain an ambulance service in Louisiana without a valid current license from the department.

1. Exception. No license shall be required for any hospital that operates a vehicle solely for the purpose of moving its own patients between parts of its own campus, provided that all of the following conditions are met:

a. the parts of the hospital's campus are not more than 10 miles apart;

b. at the time of transport, the patient is attended by at least two individuals who are an emergency medical technician, a licensed practical or registered nurse, or a physician; and

c. the vehicle utilized by the hospital for transport contains the same equipment as is required for a licensed ambulance.

C. Ground ambulance services shall be licensed separately from air ambulance services. In those air ambulance services that are joint ventures, the license shall be issued to the provider of medical care and services.

D. A separately licensed ambulance service shall not use a name which is substantially the same as the name of another ambulance service licensed by the department unless the applicant is part of the same corporation or is chain affiliated.

E. A license issued to an ambulance service shall:

1. be issued to the person or entity named in the license application;

2. be valid only for one service's headquarters and its substations to which it is issued, and only for the specific geographic address of that headquarters;

3. be valid for one year from the date of issuance, unless revoked, suspended, modified or terminated prior to that date or unless a provisional license is issued;

4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the service;

5. not be subject to sale, assignment, donation or other transfer, whether voluntary or involuntary; and

6. be posted in a conspicuous place in the ambulance service's headquarters at all times.

F. The department has the authority to issue the following types of licenses.

1. A full license is issued only to those applicants that are in substantial compliance with all applicable federal, state, and local laws, regulations, and policies. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended or terminated.

2. A provisional license may be issued to those providers or applicants that do not meet the criteria for full licensure. The license shall be valid for a period not to exceed six months.

a. The department may conduct a follow-up inspection prior to the expiration of the provisional license. If at the follow-up inspection, the provider or applicant has corrected all non-compliance or violations, the department may issue a full license. The full license will be valid until the ambulance service's license anniversary date.

b. For an applicant applying for initial licensure, if the follow-up inspection reveals that the ambulance service failed to correct all violations, the service shall be required to begin the initial licensing process again by submitting a new initial licensing packet and fee in order to become licensed.

c. For an existing ambulance provider, if the follow-up inspection reveals that the provider has failed to correct all violations, the department may re-issue a provisional license or allow the provisional license to expire.

d. A provisional license may be issued by the department for the following nonexclusive reasons:

i. the applicant or service has more than five violations of ambulance service regulations during one inspection;

ii. the applicant or service has more than three valid complaints in a one-year period;

iii. the department, medical director, or the quality improvement program have identified medical care that places patient(s) at risk;

iv. the applicant or service fails to correct violations within 60 days of being cited, or at the time of a follow-up inspection, whichever occurs first;

v. the applicant fails to submit assessed fees after notification by the department; or

vi. there is documented evidence that the applicant has bribed, intimidated or harassed someone to use the services of any particular ambulance service.

3. If an existing licensed ambulance provider has been issued a notice of license revocation, suspension, modification or termination and the provider's license is due for annual renewal, the department shall issue a renewal license subject to the pending license revocation, suspension, modification or termination if a timely administrative appeal has been filed. The license renewal letter and the renewal license shall state that the license is being renewed subject to the pending license revocation, suspension, modification or termination. The renewal of such a license does not affect in any manner the license revocation, suspension, modification or termination; the renewal of such a license does not render any such license revocation, suspension, modification or termination moot. This type of license is valid for the pendency of the administrative appeal, provided that the renewal fees are timely paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

#### **§6005. Initial Licensing**

A. All requirements of the application process for licensing shall be completed by the applicant before the application will be processed by the department. No application will be reviewed until the application fee is paid.

B. An application packet shall be obtained from the Department of Health and Hospitals. A completed application packet for an ambulance service shall be submitted to, and approved by, the department prior to an applicant providing ambulance services.

C. The license application shall be submitted to the department on forms provided for that purpose. The application shall provide documentation that the applicant meets the appropriate requirements for an ambulance

provider as specified by regulations established by the department. An incomplete application shall be returned to the applicant.

D. An applicant seeking a license as an ambulance provider shall:

1. apply to provide the level of care consistent with its equipment and personnel and in accordance with the United States Department of Transportation National Highway Traffic Safety Administration's National Standard Emergency Medical Services (EMS) Curriculum and the Louisiana EMS Certification Commission's rules; this is the highest level of care that the service may function:

a. applicants must be able to provide at least one unit at the level of care for which they apply for 24 hours a day, 365 days a year;

b. ambulance services that serve more than one parish, must be able to provide at least one unit at the highest level of care for 24 hours a day, 365 days a year in each parish served;

c. the minimum level of care for an air ambulance service shall be at least at the EMT paramedic level. The department may require the submission of work schedules and individual credentials to verify this;

2. in the initial application only, petition the department for hours of operation other than 24 hours a day, 365 days a year;

3. submit a completed application to the department on the designated forms with the required information and the following supporting documentation:

a. a notarized certificate of insurance verifying that the provider has the legally mandated insurance coverage;

b. proof that the provider has a medical director and that such director is a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners;

c. all medical protocols signed by the physician/medical director with their prescribed approvals by the parish or component medical society, and/or the Louisiana Emergency Response Network (LERN) as applicable;

d. copies of personnel certifications:

i. the department may inspect and review these certifications at an applicant's office(s) by prior agreement between the applicant and the department;

e. for those providers providing advanced life support, verification that the provider possesses a Louisiana Controlled Substance License and a United States Drug Enforcement Administration Controlled Substance Registration;

f. proof that the service holds a Clinical Laboratory Improvement Act waiver;

g. a Federal Aviation Administration (FAA) Part 135 Commercial Air Taxi Certificate (where applicable); and

h. documentation that the provider is in compliance with the criminal history check requirements of R.S. 40:1300.51-1300.56;

4. submit to a background investigation which includes, but is not limited to, fingerprinting and a criminal history check; and

5. be a United States citizen or a legal alien with appropriate documentation from the U.S. Department of Homeland Security.

E. The applicant must be prepared to be fully operational for an initial inspection within 90 days after payment of the application fee. If the applicant is unable to do so, the application will be closed.

1. If the application is closed and the applicant is still interested in becoming an ambulance service provider, he/she shall submit a new initial application packet, including a new initial fee to start the licensing process.

F. Prior to the initial license being issued to the provider, an initial licensing inspection shall be conducted on-site at the ambulance provider to assure compliance with licensing standards and appropriate federal, state or local statutes, laws, ordinances, rules and regulations.

G. Until the initial license is issued to the provider by the department, no patient shall be provided ambulance services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

#### **§6007. Service Areas**

A. An ambulance provider's service area is that territory which the ambulance provider renders services, has vehicles posted or domiciled, and is legally authorized by the local governing body(ies) to provide services.

B. Upon initial application, an applicant for an EMS license shall declare his service area in writing. The department may require the applicant to provide a map of the service area. The applicant shall also provide copies of all necessary local licenses and permits to operate within the service area, or other legal clearances.

C. If an ambulance provider wishes to expand into additional service areas, he must notify the department at least 72 hours in advance.

1. This notification must include:

- a. a description of the territory added;
- b. the unit numbers and vehicle identification numbers of vehicles assigned to the area; and
- c. the address and telephone number of any substations within the designated service area.

2. The provider shall also provide a copy of all necessary local permits and licenses or other legal clearances.

D. Within 90 days of moving into a new territory, the ambulance service shall furnish the department with a copy of the necessary protocol approvals by the appropriate parish or component medical society in accordance with RS 40:1234.E.1.

E. If an ambulance service withdraws from a territory, it must notify the department at least 30 days in advance. It must provide the department with evidence that it has notified the appropriate local authorities that it will no longer be providing ambulance service in the area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

#### **§6009. Fees**

A. Any remittance submitted to the department in payment of a required fee must be in the form of a company or certified check or money order made payable to the Department of Health and Hospitals.

B. Fee amounts shall be determined by the department.

C. Fees paid to the department are not refundable.

D. A fee is required to be submitted with:

1. an initial application;
2. a renewal application;
3. a change of controlling ownership; and
4. a change of name or physical address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

#### **§6011. Inspections**

A. Initial Inspections. An applicant must successfully complete an initial inspection by the department which includes:

1. an inspection of all vehicles to determine that they are safe and in working order and that they are equipped with all of the prescribed medical equipment as required by these provisions and R.S. 40:1235, 40:1235.1 or 40:1236.2:

a. what is safe and working order shall be determined pursuant to the provisions of R.S. 32 and the Louisiana Motor Vehicle Inspection Manual, in addition to the provisions of this Chapter and R.S. 40:1235 and 1235.1;

b. for aircraft, the safe and working order shall be determined by the rules of the FAA;

c. each vehicle successfully completing the inspection shall receive a permit authorizing it to be operated as part of the applicant's service;

2. an inspection of all personnel credentials to verify that they meet the requirements of law;

3. an inspection, and when deemed necessary by the department, verification of the information required in this Chapter and that such information remains current;

4. verification that the provider has complied with all applicable federal, state, and local statutes, and rules, and that the provider has obtained all necessary and applicable licenses, permits, and certifications, including certificates of need or certificates of public convenience and necessity; and

5. for those providers rendering advanced life support, verification that the provider possesses a Louisiana controlled substance license and a U.S. Drug Enforcement Administration controlled substance registration.

B. Other Inspections. The department may conduct the following types of inspections.

1. Licensing Inspection. Licensing inspection is a periodic onsite visit conducted as necessary to assure compliance with ambulance licensing standards.

2. Follow-Up Inspection. An onsite follow-up may be conducted whenever necessary to assure correction of violations. When applicable, the department may clear violations at an exit interview and/or by mail.

3. Complaint Inspection. A complaint inspection shall be conducted to investigate allegations of noncompliance. Complaint inspections are unannounced.

#### **C. Vehicle Inspections**

1. Fleet Addition Inspections

a. Any ambulance service adding an ambulance, air ambulance or sprint vehicle to their fleet must provide written notification to the department in advance of the addition. The notification must include:

- i. the vehicle identification number;

ii. a copy of the certificate of registration from the Office of Motor Vehicles or the Federal Aviation Administration;

iii. proof of commercial automobile or aircraft liability insurance; and

iv. the vehicle certification fee.

b. All ambulances, air ambulances, and emergency medical response vehicles must be inspected as soon as possible after they are placed in service. They will be inspected for the requirements of the Louisiana Motor Vehicle Inspection Act, FAA Part 135 rules, and this Chapter.

c. Any vehicle borrowed, leased or rented by the service for less than 90 days shall not be subject to a vehicle inspection fee. However, all vehicles shall be subject to compliance with this Chapter.

#### 2. Spot Check Inspections

a. A vehicle compliance inspection may be performed at any time that the vehicle is not in route to a call or transporting a patient. This may include verification of staff credentials.

D. The department may issue appropriate sanctions including, but not limited to, civil fine(s) and license revocation for violations or findings of non-compliance found during an inspection.

E. DHH surveyors and staff shall be given access to all areas of the provider and all relevant files during any inspection. DHH surveyors and staff shall be allowed to interview any person with ownership interest, staff or patient, as necessary or required to conduct the inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

### §6013. Changes

A. The Department of Health and Hospitals shall be notified, in writing, within five working days of the occurrence of any changes in:

1. physical address of the headquarters;
2. agency name;
3. phone number;
4. 24-hour contact procedure;
5. ownership;
6. address or phone number of any substation or the addition of any substation;
7. administrators (a completed key personnel change form obtained from department is required);
8. director of operations (a completed key personnel change form is required);
9. medical directors;
10. insurance coverage;
11. cessation of business; or
12. change in the service area.

#### B. Change of Ownership (CHOW)

1. Actions which constitute a change of ownership include, but are not limited to the following.

a. Unincorporated Sole Proprietorship. Transfer of title and property to another party constitutes a change of ownership.

b. Corporation/Limited Liability Corporation (LLC). The merger of the provider corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation

constitutes a change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute a change of ownership.

c. Partnership. In the case of a partnership, the removal, addition or substitution of a partner, unless the partners expressly agree otherwise, as permitted by applicable state law, constitutes a change of ownership.

d. Leasing. The lease of all or part of a provider facility constitutes a change of ownership of the leased portion.

2. Change of Ownership packets may be obtained from the department. Only an agency with a full license shall be approved to undergo a change of ownership. An ambulance service license is not transferable from one entity or owner to another.

3. The following information must be submitted within five working days after the act of sale:

a. a new license application and the current licensing fee;

i. the purchaser of the agency must meet all criteria required for initial licensure as an ambulance services provider;

b. any changes in the name and/or address of the ambulance service;

c. any changes in administrative personnel (administrator, medical director, director of operations);

d. disclosure of ownership forms; and

e. a copy of the Bill of Sale and Articles of Incorporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

### §6015. License Renewal

A. An ambulance service license must be renewed annually.

B. An ambulance service seeking a renewal of its license shall:

1. request a renewal packet from the department if one is not received at least 45 days prior to license expiration;

2. complete all forms and attachments and return to the department at least 30 days prior to license expiration; and

3. submit the current annual licensing fees with the packet. An application is not considered to have been submitted unless the licensing fees are received.

C. The department may issue a full renewal license to an existing licensed provider that is in substantial compliance with all applicable federal, state departmental and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license, unless the license is revoked, suspended, denied, or modified.

D. Failure to submit to the department a completed license renewal application packet prior to the expiration of the current license or prior to the expiration of deadlines established by the department shall result in the voluntary non-renewal of the license.

E. The renewal of a license does not in any manner affect any sanction, civil monetary penalty or other action imposed by the department against the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.E.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

**§6017. Denial, Revocation or Suspension of a License**

A. Denial of a License. An applicant may be denied a license for one of the following nonexclusive reasons:

1. the background investigation indicates that the applicant has a felony conviction;
2. has had any license pertaining to the provision of emergency medical services revoked in any jurisdiction;
3. failure to comply with applicable federal, state, and local laws, statutes, rules or regulations;
4. intentional falsification of material information provided pursuant to this chapter; or
5. conviction, guilty plea or plea of nolo contendere of a felony by the following, as shown by a certified copy of the record of the court of the conviction:

- a. administrator;
- b. director of operations;
- c. members or officers; or
- d. the person(s) designated to manage or supervise the ambulance service if the applicant is a firm or corporation.

B. Revocation or Denial of License Renewal. An ambulance service's license may be revoked or may be denied renewal for any one of the following:

1. failure to be in substantial compliance with the ambulance service licensing standards;
2. failure to be in substantial compliance with other required statutes, laws, ordinances, rules or regulations;
3. failure to comply with the terms of a settlement agreement or education letter;
4. failure to uphold patient rights whereby violations may result in harm or injury;
5. failure of the agency to protect patients/persons in the community from harmful actions of the agency employees; including, but not limited to:
  - a. health and safety;
  - b. coercion;
  - c. threat;
  - d. intimidation; and
  - e. harassment;
6. failure to notify proper authorities of all suspected cases of neglect, criminal activity, or mental or physical abuse which could potentially cause harm to the patient;
7. failure to employ qualified personnel and maintain an adequate quality insurance program that identifies poorly performing staff and remediates or terminates them for deficiencies;
8. failure to remain fully operational at any time for any reason other than a disaster, unless specifically excepted by the department;
9. failure to submit fees including, but not limited to:
  - a. renewal fee;
  - b. change of agency address or name; or
  - c. any fines assessed by the department;
10. failure to allow the department to conduct an investigation, inspection or survey, or to interview staff or participants, or to allow access to any relevant records during any inspection;

11. failure to remedy a situation where patients were not protected from unsafe, skilled and/or unskilled care by any person employed by the ambulance service;

12. failure to correct violations after being issued a provisional license;

13. ambulance provider staff or owner has knowingly, or with reason to know, made a false statement of a material fact in:

- a. application for licensing;
  - b. data forms;
  - c. clinical records;
  - d. matters under investigation by the department;
  - e. information submitted for reimbursement from any payment source;
  - f. the use of false, fraudulent or misleading advertising;
  - g. ambulance service staff being misrepresented or was fraudulent in conducting ambulance service business; or
  - h. convictions of a felony by an owner, administrator, director of operations or medical director as shown by a certified copy of the record of the court of conviction; or if the applicant is a firm or corporation, of any of its members or officers, or of the person designated to manage or supervise the ambulance service agency;
14. failure to comply with all reporting requirements in a timely manner; or
15. cessation of operations for any reason other than a man-made or natural disaster.

C. If an ambulance provider's license is revoked or denied renewal by the department, other than for cessation of business or non-operational status, any owner, officer, member, manager or administrator of such service is prohibited from owning, managing, directing or operating another service for a period of two years from the date of the final disposition of the revocation or denial action.

D. The secretary of the department may immediately suspend the license of an ambulance provider in accordance with the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

**§6019. Sanctions**

A. Any person or provider violating the provisions of this Chapter when such violation poses a threat to the health, safety, rights, or welfare of a patient or client may be liable to civil fines and other penalties, to be assessed by the department, in addition to any criminal action which may be brought under other applicable laws.

B. Class A Violations. If an ambulance or emergency medical response vehicle is found to have been operated in violation of any of the requirements of this Chapter concerning the number of personnel, the qualifications of personnel or failure to provide a qualified attendant to the patient, the ambulance, emergency medical response vehicle, or air ambulance shall be immediately taken out of service until it meets those requirements. The ambulance service shall be subject to a civil fine of not more than \$500 for the first violation and not more than \$1,000 per day for each repeat violation.

C. Class B Violations. If an ambulance service is found to have been operating in violation of any of the requirements of this Chapter concerning insurance coverage, its license shall be immediately suspended until it meets those requirements. The ambulance service shall be subject to a civil fine of not more than \$500 for the first violation and not more than \$1,000 per day for each repeat violation.

D. Class C Violations. If an ambulance, emergency medical response vehicle or air ambulance is found to have been operated without undergoing any inspection required under the provisions of this Chapter, the ambulance or emergency medical response vehicle shall be immediately taken out of service until it meets those requirements. The ambulance service shall be subject to a civil fine of not more than \$500 for the first violation and not more than \$1,000 per day for each repeat violation.

E. Class D Violations. If an ambulance or emergency medical response vehicle is found to have been operated in violation of any of the requirements of this Chapter concerning medical and safety equipment, the ambulance, emergency medical response vehicle or air ambulance shall be immediately taken out of service until it meets those requirements. The ambulance service shall be subject to a civil fine of not more than \$100 for the first violation and not more than \$500 per day for each repeat violation.

F. Class E Violations. If an ambulance or emergency medical response vehicle is found to have been operated in violation of any of the requirements of Chapter 7 of Title 32 of the Louisiana Revised Statutes, the ambulance, emergency response vehicle or air ambulance shall be immediately taken out of service until it meets those requirements. The ambulance service shall be subject to a civil fine of not more than \$100 for the first violation and not more than \$500 per day for each repeat violation.

G. Repeat and Egregious Violations. Those providers who commit multiple or egregious violations may be subject to suspension of their license to operate an ambulance service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

#### **§6021. Notices, Informal Reconsideration and Appeals**

A. Following an inspection, the department will issue a notice of violations if any violations are found. The notice of violations will list the department's findings at the inspection and the statutes, laws, and/or regulations that were violated.

B. If the department decides to impose a civil fine upon a provider, the department shall issue written notice of the civil fine to the provider detailing the amount of the fine and the violation(s) which is the basis of the fine. This notice may be issued subsequent to the notice of violations.

C. Informal Reconsideration. Upon notice of a violation of any of the rules in this Chapter or any applicable statute, notice of a denial, suspension, revocation of a license or license non-renewal, notice of the expiration of a provisional license due to non-compliance or of the imposition of a civil fine, or other sanction, the ambulance service provider may request an informal reconsideration.

1. A request for an informal reconsideration must be submitted in writing to the department within 15 days of receipt of the notification.

2. The reconsideration shall be conducted by a designated official(s) of the department who did not participate in the initial decision to impose the action taken.

3. The provider shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

4. Reconsideration shall be made based on the documents before the official(s). The provider may present documents at the informal reconsideration.

5. Correction of a violation shall not be the basis for reconsideration.

6. There is no right to an informal reconsideration of the department's decision to issue a provisional license or for a license that has been voluntarily surrendered.

D. Administrative Appeal of a Decision to Deny, Suspend, Revoke or Deny Renewal of a License. Any ambulance service provider whose license has been revoked, suspended, denied or denied renewal by the department shall have the right to have the proceedings of the department reviewed by an administrative law judge, provided that such appeal is made within 30 days after the notice of the decision of the department.

1. An appeal of a decision to deny, revoke or deny renewal of a license is suspensive, and the decision will not be implemented until a decision affirming the department's decision is rendered on judicial review, or there is no request for judicial review within the applicable time limits.

2. An appeal of a suspension of a license is devolutive. The provider must cease providing services upon receipt of notification of the suspension of its license.

3. An ambulance provider has the right to a judicial review of an administrative appeal affirming a denial, suspension, revocation or non-renewal of a license in accordance with the Administrative Procedures Act. Judicial review shall be by trial de novo.

F. Administrative Appeal of a civil fine or other sanction. An ambulance service provider has the right to submit an administrative appeal of a notice of a civil fine(s). Such appeal is suspensive and must be submitted within 30 days of the notice of the results of the informal reconsideration contesting the civil fine(s). If the administrative appeal decision is adverse to the provider, the provider may request a judicial review of the decision in accordance with the Administrative Procedures Act.

G. Administrative appeal of an expired provisional license due to non-compliance at the follow-up inspection. A provider with a provisional license that expires due to non-compliance or deficiencies cited at the follow-up inspection may request an administrative appeal of the expiration.

1. The appeal is limited to whether the violations or findings of non-compliance were properly cited at the follow-up inspection.

2. The provider has 15 days from the notice of the results of the follow-up inspection to request an administrative appeal.

3. The provider's appeal is devolutive; the provider must cease providing services unless an administrative tribunal issues a stay of the expiration. To request a stay, an application for a stay must be filed by the provider at the time the administrative appeal is filed. The stay may be granted by the administrative tribunal; only after a contradictory hearing and only upon a showing that there is

no potential harm to the patient(s) being served by the provider.

H. If an ambulance provider fails to submit an administrative appeal within 30 days of receiving the notification of which the provider may appeal, the department's decision becomes final and enforceable against the provider.

I. There is no right to an administrative appeal of the department's decision to issue a provisional license or for a license that has been voluntarily surrendered.

J. Correction of a violation or finding of non-compliance after the applicable inspection shall not be the basis for an administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

## **Subchapter B. Provider Responsibilities**

### **§6031. General Provisions**

#### **A. Insurance Coverage**

1. Each ambulance provider shall continuously have in effect the following minimum amounts of insurance:

a. general liability insurance in the amount of \$500,000 per occurrence and \$500,000 in the aggregate;

b. automobile or aircraft liability insurance in the amount of \$500,000; and

c. medical malpractice liability insurance in the amount of \$500,000.

2. Participation in the Louisiana Patients' Compensation Fund will be accepted as medical malpractice insurance.

3. An ambulance service shall provide an original notarized certificate of insurance as proof that it has sufficient insurance coverage.

#### **B. Infection Control and Laboratory Testing**

1. An ambulance service must have and comply with a written infection control plan in accordance with 29 CFR 1910.120.

2. Ambulance services conducting blood glucose or other laboratory testing in the field must have the appropriate Clinical Laboratory Improvement Act (CLIA) permits or waivers.

#### **C. Communications**

1. All ambulance services shall have a dispatch facility. They may either own and operate their own facility or contract their dispatching to an appropriate emergency communications agency. All dispatch facilities must have 24 hour emergency power.

2. In addition to 911, the ambulance service will provide the department with a conventional seven digit telephone number for their dispatch facility that may be reached 24 hours a day, 365 days a year.

3. All ambulance services shall have a Federal Communications Commission (FCC) type accepted two-way dispatching communications system. They may either own or lease the system.

a. All dispatch center(s) and/or point(s) of dispatch shall have a proper FCC licensed radio system or an agreement with an FCC licensed communication provider that does not allow for transmission by unauthorized users, but will provide the capability for the dispatcher, with one transmission, to be heard simultaneously by all of its

ambulances/emergency medical response units within that defined geographic service area.

b. Services that utilize multiple transmitters/tower sites shall have simultaneous communications capabilities with all units utilizing a specific transmitter/tower site.

4. Ambulance services may not dispatch their day-to-day ambulance operations over a commercial wireless telephone, pager system, FMRS, or GMRS radio system, or Voice over Internet Protocol radio system.

5. All ambulance services must be compliant with the Louisiana EMS Communications Plan.

6. All ambulance services shall be compliant with any applicable mandates of the FCC, the U.S. Department of Homeland Security, the Governor's Office of Homeland Security and Emergency Preparedness, and other applicable governmental agencies.

7. Any ambulance encountering a patient outside of its service area must make radio or telephone with the local 911 communications center.

#### **D. Scanner Usage**

1. No commercial ambulance shall make any emergency run based solely on information intercepted by use of a radio communication scanner or similar device except in cases where human life is threatened, unless that commercial ambulance has been specifically requested to respond to such an emergency. Nothing in this Section shall be construed to prohibit service to a subscriber of a commercial ambulance service.

a. No person certified under this Chapter or certified or licensed pursuant to any provision of Louisiana law shall operate a commercial ambulance in violation of this provision.

b. An ambulance service that violates this provision shall have its license to operate an ambulance service in Louisiana suspended for a period of six months.

#### **E. Cessation of Business**

1. If at any time the ambulance service is no longer operational, for any reason other than man-made or natural disaster, the license shall be deemed to be invalid and shall be returned to the department within five working days.

2. The agency owner shall be responsible for notifying the department of the location of all records and a contact person.

3. All emergency vehicles no longer in use shall have all audible and visible warning signals and markings indicating their emergency status removed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

### **§6033. Personnel**

#### **A. Director of Operations**

1. The director of operations (DOO), or equivalent job title, shall be designated, in writing, to supervise:

a. all aspects of patient care;

b. all activities of professional staff and allied health personnel; and

c. responsible for compliance with regulatory requirements.

2. The DOO, or alternate, shall be on site or immediately available to be on site at all times during operating hours, and additionally as needed. If the DOO is

unavailable he/she shall designate a certified EMT or paramedic to be responsible during his/her absence.

3. The director of operations shall be at least a nationally registered EMT, or above, and must be currently certified to practice in the state of Louisiana:

a. with at least three years experience as an EMT; and

b. be a full-time employee of only one ambulance service facility. The director of operations is prohibited from simultaneous/concurrent employment.

4. The department may exempt the director of operations from the requirements of this §6133.A.3.a-b if services are primarily staffed and operated by volunteers.

5. The director of operations shall supervise all patient care activities to assure compliance with current standards of accepted EMS practice including, but not limited to, the following:

a. supervise the employee health program and implement policies and procedures that establish and support quality patient care;

b. assure compliance with local, state, and federal laws, and promote health and safety of employees, patients and the community, using the following nonexclusive methods:

i. resolve problems;

ii. perform complaint investigations;

iii. provide orientation and in-service training to employees to promote effective ambulance services and safety of the patient, and to familiarize staff with regulatory issues, and agency policy and procedures;

iv. orient new direct health care personnel;

v. perform timely annual performance evaluations of health care personnel;

vi. assure participation in regularly scheduled appropriate continuing education for all health professionals;

viii. assure that the care provided by the health care personnel promotes effective emergency medical care and the safety of the patient; and

ix. assure that the ambulance service policies are enforced.

6. The director of operations shall be responsible for compliance with all regulations, laws, policies and procedures applicable to the ambulance service facility specifically and to Medicare/Medicaid issues when applicable.

7. The director of operations shall also perform the following duties:

a. implement personnel and employment policies to assure that only qualified personnel are hired;

i. licensing and/or certification (as required by law) shall be verified prior to employment and annually thereafter and records shall be maintained to support competency of all allied health personnel;

b. implement policies and procedures that establish and support quality patient care, cost control and mechanisms for disciplinary action for infractions;

c. be on-site during business hours or immediately available by telecommunications when off-site conducting the business of the ambulance service and be available after hours as needed;

d. be responsible for and direct the day-to-day operations of the ambulance service facility;

e. act as liaison among staff, patients and the community;

f. designate, in writing, an individual who meets the qualifications of director of operations to assume the authority and the control of the ambulance service if the director of operations is unavailable; and

g. designate in advance a committee he/she chooses to establish policies governing the day-to-day provisions of the ambulance service.

8. The Director of Operations shall refer to the Louisiana Emergency Medical Services Commission, or other authority of competent jurisdiction, any certified or licensed employee who has been proven to have committed any of the following:

a. the selling, attempting to sell, falsely obtaining, or furnishing any professional certification document;

b. conviction of a crime or offense which reflects the inability of that person to provide care with due regard of the health and safety of the patient. This includes a plea of *nolo contendere* regardless of the final outcome; or

c. is guilty in the aiding and abetting of someone in violation of these regulations or the regulations of the Louisiana EMS Certification Commission.

#### B. Medical Director

1. The medical director must be a licensed physician, authorized to practice medicine in Louisiana and knowledgeable about emergency medical care and the emergency medical services system. The medical director is the clinical supervisor of the ambulance service. The medical director reviews, coordinates, and is responsible for the management of clinical and medical care for all patients. The medical director may be an employee or a volunteer of the agency. The agency may also contract for the services of the medical director.

2. The medical director or his designee shall assume overall responsibility for the medical component of the patient care program including, but not limited to:

a. responsibility for all controlled dangerous substances utilized by the ambulance service;

b. developing and coordinating procedures for the provision of emergency medical care;

c. participating in the development of the protocols or procedures for providing care; and

d. acting as a liaison between the ambulance service provider and the local health care community.

3. The medical director must maintain a current list of all certified emergency medical services personnel that function under the Medical Director's supervision.

#### C. Certified Emergency Medical Services Personnel

1. A certified first responder must be certified by the Louisiana Bureau of Emergency Medical Services. A certified first responder may only drive the ambulance and assist the EMT. He may not attend the patient in the back of the ambulance by himself.

2. A certified emergency medical technician-basic may drive the ambulance, assist another medic and may attend the patient by himself provided the patient does not require advanced life support (ALS) services, and the assessment and interventions fall within the scope of practice of the EMT-basic.

3. A certified emergency medical technician-intermediate may drive the ambulance, assist another medic

or attend the patient by himself as long as the assessment and interventions fall within the scope of the EMT-intermediate.

4. An emergency medical technician-paramedic may drive the ambulance, assist another medic or attend the patient by himself provided the medical procedures being performed are within his established scope of practice.

5. The highest ranking EMT in the ambulance is responsible for the patient's care.

D. Other Medical Personnel. Other medical personnel such as physicians, registered nurses, etc., may function in an ambulance in accordance with R.S. 40:1235 and the scopes of practice established by the appropriate boards of competent jurisdiction.

E. All medical personnel working in an ambulance shall have either a current Health Care Provider or a Professional Rescuer CPR certification from the American Heart Association or the American Red Cross.

F. All drivers must successfully complete and hold a valid current defensive driving certificate issued by the National Safety Council or its equivalent as determined by the Department of Health and Hospitals. The course must be equivalent to at least the National Safety Council's DDC-6 program or emergency vehicle operation program. Pre-licensing driving courses shall not be acceptable.

#### G. Pilots

1. Pilots shall not participate in patient care activities, except for loading and unloading the patient, and incidental duties.

2. Pilots shall:

a. hold a valid appropriate commercial pilot's license from the Federal Aviation Administration;

b. have a valid physical examination certificate from an FAA flight surgeon. Copies of these credentials shall be made available to the department;

c. be qualified to operate the specific aircraft; and

d. have an appropriate instrument flight rating as necessary.

H. The ambulance service shall have a person (employee or contractor) charged with the following financial responsibilities:

1. ensuring that all services are correctly billed to the proper payer source; and

2. reviewing patient eligibility for Medicare and Medicaid reimbursement.

#### I. Identification and Credentials

1. All personnel working on an ambulance and/or sprint vehicle shall carry with them at all times while on duty a copy of their pertinent medical certifications (state license or certification) and driver's license.

2. All medical personnel working on an ambulance, air ambulance, or emergency medical response vehicle, shall have their level of certification readily identifiable to the public. This may include, but is not limited to, a badge, embroidered patch or emblem, lapel pin, photo ID card, or distinguishable shirt.

3. All ambulance services must provide their personnel with photo identification cards. All personnel working on ambulance service vehicles must carry these cards while working on duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

#### §6035. Medications

A. All medications, including IV fluids, shall be current in accordance with the manufacturer's expiration date.

B. All ambulance services shall have a system in place to identify and remove recalled pharmaceuticals from the service's inventory.

#### C. Controlled Dangerous Substances

1. All paramedic ambulance services must have both a Louisiana Controlled Dangerous Substance (CDS) license and a U.S. Drug Enforcement Administration (DEA) controlled substance registration. This license and registration shall be for the services, headquarters or central location.

a. If the ambulance service is owned by a hospital that holds a CDS license and DEA registration it is exempt from this requirement.

2. All controlled dangerous substances carried on ambulances must be under the personal control of a paramedic or kept in a substantially constructed, securely locked cabinet on the vehicle. Controlled substances may not be left unattended in unlocked medication kits.

3. All controlled substances kept at the ambulance service's central location must be stored in a substantially constructed securely locked cabinet or a safe.

4. Ambulance services must maintain both a dispenser's log and a perpetual inventory of their controlled substances unless they are part of a hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2 and R.S. 40:973.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

#### §6037. Medical Protocol

A. In those parishes where the parish or component medical society has established a written pre-hospital EMS protocol for use in the parish, the ambulance service must follow that protocol, and/or the protocols of the Louisiana Emergency Response Network as applicable.

B. In those parishes where the parish or component medical society have not established a written pre hospital EMS protocol for use in the parish, the EMS service must develop a protocol to be used by its personnel. The appropriate portions of this protocol must be approved by the parish or component medical society.

C. These protocols shall include protocols for the care of:

1. cardiac arrest;

2. ventricular tachycardia;

3. supraventricular tachycardia;

4. premature ventricular ectopy when greater than six per minute, multifocal, bigeminal, occurring in bursts of two or more, falling on or close to the T wave;

5. severe, unrelieved, suspected cardiogenic chest pain, or suspected myocardial infarction;

6. bradycardias;

7. hypoglycemia;

8. anaphylactic reactions;

9. hypovolemic shock;

10. unconsciousness, altered mental status, or respiratory depression from suspected drug overdose;

11. treatment induced unconsciousness, altered mental status, hypotension, or respiratory depression from physician ordered or protocol appropriate paramedic administered narcotics;

12. respiratory failure or respiratory arrest;
13. active seizure;
14. hospital patient destination;
15. pre hospital diversion;
16. patient with advanced directives;
17. mass casualty incidents; and
18. injuries from weapons of mass destruction.

D. All protocols shall:

1. meet or exceed requirements of these licensing standards and all applicable federal, state, and local laws;
2. be consistent with the National Standard EMS Scope of Practice and the rulings of the Louisiana EMS Certification Commission; and
3. be reviewed annually.

E. Ambulance services are accountable for assuring compliance with applicable protocols by their personnel. Exceptions to these protocols must be reviewed on a case-by-case basis by the physician medical director.

F. Ambulance services must produce and provide to all personnel a policy and procedures manual governing the service's operation to all personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1234.E.1 and 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

#### **§6039. Records**

A. There shall be a permanent record of each patient encounter made by the ambulance service. These records may be maintained as hard copy and/or electronically. The record shall be maintained to assure that the medical treatment of each patient is completely and accurately documented. Records shall be readily available and systematically organized to facilitate the compilation and copying of such information.

B. The record of each patient encounter shall include at a minimum:

1. pertinent demographic information about the patient;
2. location of the response;
3. date and time of response;
4. situation;
5. patient's chief complaint;
6. patient's signs and symptoms;
7. a synopsis of the assessment of the patient to include both the initial and complete assessment of the patient;
8. vital signs;
9. pertinent past medical history;
10. any interventions or treatments conducted;
11. transport destination and arrival time if applicable; and
12. any other significant information that pertains to the patient or to the response.

C. Safeguards shall be established and implemented to maintain confidentiality and protection of the medical record from fire, water, or other sources of damage.

D. Safeguards shall be established and implemented to maintain the confidentiality and protection of all medical records in accordance with the Health Insurance Portability and Accountability Act (HIPAA) regulations.

E. The department shall have access to all business records, patient records or other documents maintained by, or on behalf of the provider, to the extent necessary to insure compliance with this Chapter. Ensuring compliance includes, but is not limited to:

1. permitting photocopying of records by the department; and
2. providing photocopies to the department of any record or other information the department may deem necessary to determine or verify compliance with this Chapter.

F. The provider shall keep patient records for a period of six years after the patient encounter. The patient records shall:

1. remain in the custody of the provider;
2. remain in the headquarters for at least one year from the date of the last patient encounter; and
3. not be disclosed or removed unless authorized by law or regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

#### **§6041. Emergency Preparedness**

A. All ambulance services shall have an all hazards disaster plan on file that has been approved by their local Office of Emergency Preparedness and/or Homeland Security.

B. This plan shall include terrorist incidents and Weapons of Mass Destruction events.

C. This plan shall include an incident command system that is compliant with the National Incident Management System as established by the U.S. Department of Homeland Security.

D. All ambulance services shall have disaster mutual aid agreements with all ambulance services that are located in the same DHH established region(s) that the ambulance service operates in.

E. All ambulance services shall have appropriate medical protocols as a part of their disaster plan.

F. All ambulance services shall have an emergency communications plan. This plan should be triple redundant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

#### **§6043. Quality Assurance**

A. The ambulance service shall have an on-going comprehensive, integrated, self-assessment quality improvement process which provides assurance that patient care is provided at all times in compliance with accepted standards of professional practice.

B. The ambulance service shall have written plans, policies and procedures addressing quality assurance.

C. The ambulance service shall monitor and evaluate its resource allocation regularly to identify and resolve

problems with the utilization of its services, facilities and personnel.

D. The ambulance service shall follow a written plan for continually assessing and improving all aspects of operations which include:

1. goals and objectives;
2. the identity of the person responsible for the program;
3. a system to ensure systematic, objective regular reports are prepared and distributed to the governing body and any other committees as directed by the governing body;
4. the method for evaluating the quality and the appropriateness of care;
5. a method for resolving identified problems; and
6. a method for implementing practices to improve the quality of patient care.

E. The plan shall be reviewed at least annually and revised as appropriate by the medical director and director of operations.

F. Quality assessment and improvement activities shall be based on the systematic collection, review, and evaluation of data which, at a minimum, includes:

1. services provided by professional and volunteer staff;
2. audits of patient charts;
3. reports from staff, volunteers and clients about services;
4. concerns or suggestions for improvement in services;
5. organizational review of the ambulance service program;
6. patient/family evaluations of care; and
7. high-risk, high volume and problem-prone activities.

G. When problems are identified in the provision of ambulance care, there shall be:

1. evidence of corrective actions, including ongoing monitoring;
2. revisions of policies and procedures; and
3. educational intervention and changes in the provision of services.

H. The effectiveness of actions taken to improve services or correct identified problems shall be evaluated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

### **Subchapter C. Emergency Vehicles—Ground Transportation**

#### **§6053. General Provisions**

A. All emergency vehicles utilized by ambulance services must be in compliance with the Louisiana Motor Vehicle Regulatory Act.

B. All emergency vehicles must be insured in accordance with R.S. 40:1236.4.

C. An ambulance service may rent or borrow a vehicle for up to 90 days without having it inspected or pay certification fees. However, the vehicle will be subject to spot check inspection if necessary. The vehicle must be in compliance with R.S. 32:1 et seq., and this Chapter.

D. Unless an ambulance or a sprint vehicle is obtained for less than 90 days, it must be registered in the ambulance service's name.

E. All emergency vehicles must have permanent signage indicating the name of the provider and the unit number. All numbering and lettering shall be reflective and be at least 3 inches high or greater. If a logo is used it must be 6 inches or greater in size. This shall appear on the rear and on both sides of the vehicle.

1. Vehicles borrowed or rented for less than 90 days are exempt from this permanent signage requirement.

F. Any equipment provided to ambulance services for their vehicles with grants from the U.S. Department of Health and Human Services must be stocked on the vehicle in accordance with the provisions of the grant.

G. Emergency Warning Lights. These lights shall be mounted as high and as widely spaced laterally apart as practicable. There must be two alternating flashing red lights on the front of the vehicle mounted at the same level. There must be two alternating flashing red lights on the rear of the vehicle mounted at the same level. These front and rear lights shall have sufficient intensity to be visible at 500 feet in normal sunlight. The following exceptions apply:

1. Any authorized emergency vehicle may be equipped with a large revolving red light on the roof instead of alternating flashing red lights on the front. This light must be discernible in all directions and have sufficient intensity to be visible at 500 feet in normal sunlight.

2. Authorized emergency medical response vehicles of organized fire companies may be equipped with a large red and white light on the roof encased in a clear dome, instead of the large red light on the roof. This light must be discernible in all directions and have sufficient intensity to be visible at 500 feet in normal sunlight.

H. Audible Warning Signals. Each emergency medical response vehicle must have a siren, exhaust whistle, or bell capable of giving an audible signal sufficient to warn motorists of its approach (audible up to 500 feet).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

#### **§6055. Emergency Medical Response Vehicles (Sprint Vehicles)**

A. Emergency Medical Response Vehicle Qualifications. The vehicle may be on either an automobile or truck chassis, have four or more wheels and must have the following external markings:

1. all numbering and lettering shall be reflective;
2. the unit number shall be displayed in numerals 3 inches high or greater on the rear and both sides of the vehicle;

3. the agency's name shall appear on both sides of the vehicle in lettering 3 inches high or greater, or with a logo that is 6 inches or greater in size;

4. the agency's name or logo shall appear on the trunk or rear door in lettering 3 inches high. Agency logos must be specific to the agency and on file with the department; and

5. the vehicle's markings shall indicate its designation as an emergency medical response vehicle such as sprint car,

supervisor, chief, special services, etc. No markings on the vehicle may imply that it is an ambulance.

#### B. Equipment and Supplies

1. All vehicle units must have a FCC type accepted two-way radio communication system for day-to-day communications. The emergency medical response vehicle's dispatch center(s) and/or point(s) of dispatch must be capable of interactive two-way radio communications within all of the service's defined area.

2. In addition to the day-to-day communication system, all emergency medical response vehicles must have a two-way radio with disaster communications capability on the very high frequency (VHF) broadband frequency designated by the FCC to be V-MED 28 or the national EMS mutual aid frequency, also known as the Hospital Emergency Activation Radio (HEAR) system (155.340) MHz with carrier squelch, ENCODER optional.

a. Direct communication with a physician and hospital must be conducted through:

- i. HEAR;
- ii. wireless telephone;
- iii. Radio Telephone Switch Station (RTSS); or
- iv. Med. 10 System, etc.

3. All emergency medical response vehicles must be equipped with at least the following:

- a. one fire extinguisher, 10 B:C (secured and identified);
- b. one set of three triangle reflectors (or cyalume light sticks or traffic cones);
- c. one flashlight, two "C" minimum;
- d. one current USDOT Hazardous Materials Guidebook;
- e. per each crew member, one hard hat and safety goggles (ANZI spec) or fire fighter's helmet with face shield; and
- f. per each crew member, one pair of leather or nomex gauntlet gloves.

4. All emergency medical response vehicles must have the following basic life support medical supplies:

- a. one portable suction unit;
- b. one suction tubing, wide bore (if required);
- c. one rigid pharyngeal/tonsillar wide bore suction;
- d. one suction catheter 5 or 6 or 5/6;
- e. one suction catheter, 14 or larger;
- f. one portable oxygen cylinder, D, Jumbo D, or E, appropriate color:
  - i. maximum of 2000 to 2200 psi, minimum of 500 psi;
  - g. one variable flow regulator for portable oxygen cylinder with wrench;
  - h. one oxygen nonrebreather mask with tubing, adult;
  - i. one oxygen nonrebreather mask with tubing, pediatric;
  - j. one oxygen nasal prongs with tubing;
  - k. one bag valve mask, adult;
  - l. one bag valve mask, pediatric;
  - m. one oral airway, adult;
  - n. one oral airway, child;
  - o. one oral airway, infant;
  - p. one extremity splint device, long;
  - q. one extremity splint device, short;

r. one long spine immobilization device with at least 3 points of confinement:

- i. a clamshell device may be used;
- s. one cervical immobilization device;
- t. one extrication-type cervical collar, pediatric, small;
- u. one extrication-type cervical collar, pediatric, medium;
- v. one extrication-type cervical collar, pediatric, large;
- w. one extrication-type cervical collar, adult, small;
- x. one extrication-type cervical collar, adult, medium;
- y. one extrication-type cervical collar, adult, large;
- z. one burn sheet, sterile;
- aa. ten small sterile dressings 4" x 4", at least 2 per packet;
- bb. four large sterile dressings at least 5" x 9";
- cc. one multi-trauma dressing (at least 10" x 30") or 1" x 24" military ABD dressing;
- dd. two triangular bandages, manufactured;
- ee. four complete rolls of roller bandage, soft gauze, at least 2 inches wide;
- ff. one roll each of Hypoallergenic medical adhesive tape, 1" and 2";
- gg. two occlusive dressings, 3" x 8" or larger or commercial chest seal;
- hh. one liter normal saline for irrigation in plastic container;
- ii. one supra glottis airway approved by Louisiana EMS Certification Commission;
- jj. one tube of oral glucose gel or paste, 12.5 grams, cake icing will suffice;
- kk. one epinephrine auto-injector, adult, .30 mg;
- ll. one epinephrine auto-injector, pediatric, .15 mg;
- mm. one 5 grain (325 mg) aspirin tablet or four 81 grain pediatric aspirin tablets;
- nn. one Albuterol, 2.5 mg with appropriate delivery device;
- oo. one two-way radio communication device, EMS Disaster (VMED 28);
- pp. one two-way radio communications device, EMT to physician;
- qq. one two-way radio communication device, EMT to dispatch;
- rr. one disposable OB kit;
- ss. one roll of aluminum foil or a silver swaddler;
- tt. one stethoscope;
- uu. one blood pressure cuff, adult;
- vv. one blood pressure cuff, pediatric;
- ww. one pair EMT shears, either issued to vehicle or individual;
- xx. one blanket;
- yy. twenty-five triage tags;
- zz. one sharps container, 1 quart; and
- aaa. one Supraglottic airway, approved by the Louisiana EMS Certification Commission.

5. All emergency medical response vehicles that are not staffed and equipped to the EMT-paramedic level must carry an automated external defibrillator (either automatic or semi-automatic) with the appropriate lead cables and at least two sets of the appropriate disposable electrodes. If the

automated defibrillator is also capable of manual defibrillation, then an appropriate lock out mechanism (such as an access code, computer chip, or lock and key) to prevent unauthorized use of the device by those persons not authorized to manually defibrillate must be an integral part of the device.

6. All emergency medical response vehicles must carry infection control equipment as follows:

- a. one box of gloves, non sterile exam;
- b. one box of gloves, non latex;
- c. one pair per crew member, full peripheral glasses with surgical face mask or fluid shields;
- d. one per crew member, N-95 mask;
- e. one per crew member, disposable, impervious coveralls, gown, jumpsuit;
- f. one pair per crew member, disposable, impervious shoe covers;
- g. one bottle or 12 towelettes, commercial, anti-microbial hand cleaner;
- h. one readily identifiable bio hazard disposal bag;
- i. one per crew member, chemical resistant, full coverage, hooded coverall;
- j. one pair per crew member, chemical resistant footwear;
- k. one roll of chemical resistant sealant tape (not duct tape);
- l. one pair per crew member, chemical resistant goggles with a minimum of N-95 mask;
- m. one per crew member, incident command vest with florescent trim and appropriate logos; and
- n. one per crew member Mark I kits (.7 mg atropine and 2 PAM-V).

7. The following must be carried by intermediate level and paramedic level emergency medical response vehicles:

- a. two bags of IV fluid for KVO lines, D5W or isotonic 0.9% NaCl in at least 250 cc bags:
  - i. all IV fluids must be in plastic bags or jugs, not glass bottles, unless medically indicated otherwise;
- b. 1000 cc of Lactated ringers or isotonic 0.9 % NaCl in at least 2 approved containers;
- c. one macrodrip IV administration set
- d. two minidrip IV administration sets;
- e. one three way stopcock extension tubing;
- f. one each, over-the-needle IV catheters, 1.5" long, 14, 16, 18, 20, and 22 gauge;
- g. one intraosseous needle of choice;
- h. one venous tourniquet;
- i. one 1 cc syringe with .1 cc graduations;
- j. one 3 to 6 cc syringe;
- k. one 30 cc or larger syringe;
- l. one 21 to 23 gauge hypodermic needle;
- m. one 24 to 26 gauge hypodermic needle; and
- n. six antiseptic prep pads.

8. The following must be carried by all paramedic level emergency medical response vehicles:

- a. one pair of McGill forceps, adult;
- b. one pair of McGill forceps, pediatric;
- c. one tube or five packets of water soluble lubricating jelly (non cellulose);
- d. one endotracheal tube, uncuffed (3.0 to 3.5);
- e. one endotracheal tube, uncuffed, 4.0 to 4.5;
- f. one endotracheal tube, uncuffed, 5.0 to 5.5;

- g. one endotracheal tube, cuffed, 6.0 to 6.5;
- h. one endotracheal tube, cuffed, 7.0 to 7.5;
- i. one endotracheal tube, cuffed, 8.0 to 8.5;
- j. one stylette, adult;
- k. one stylette, pediatric;
- l. one laryngoscope handle with batteries and bulb;
- m. one set of spare batteries and bulb;
- n. one laryngoscope blade, straight, size 0;
- o. one laryngoscope blade, straight, size 1;
- p. one laryngoscope blade, straight, size 2;
- q. one laryngoscope handle, straight or curved, size 4;
- r. one monitor defibrillator with electrodes, lead cables, defib pads or jel;
- s. one glucometer, CLIA approved;
- t. one pediatric dosing chart;
- u. one end title CO2 detection or monitoring device;
- v. analgesics:
  - i. one aspirin 5 grain or four 81 mg; and
  - ii. morphine \*, 10 mg/ml;
- w. Anti-arrhythmics:
  - i. three Adenosine, 6 mg;
  - ii. four Atropine, pf, 1 mg;
  - iii. one Calcium Chloride, 10 percent, 1 gram;
  - iv. three Amiodorone (pre-filled), 150 mg or four Lidocaine, 100 mg pf bolus; and
  - v. one Lidocaine, pm, 1 gram;
- x. Anti-convulsive:
  - i. one Valium \*, 10 mg/2 ml; and
  - ii. one Mag Sulfate, 2 grams;
- y. Anti-histamine:
  - i. Benadryl, 50 mg;
- z. Bronco-dilators:
  - i. one Albuterol , 2.5 mg\*, inhalation;
- aa. Cardio-vascular:
  - i. one Dopamine, pm, 200 mg; and
  - ii. three NTG, .4 mg Tablet or spray;
- bb. Diabetic control:
  - i. one D50W, 50 cc; and
  - ii. one Glucagon, 1 mg;
- cc. Loop diuretic:
  - i. one Bumex, 2 mg; or
  - ii. one Lasix; 80 mg;
- dd. Narcotic antagonist:
  - i. one Naloxone, 2 mg;
- ee. Vasopressors, 4 mg total:
  - i. two Epinephrine, 1 mg 1:1,000;
  - ii. two Epinephrine, 1 mg 1:10,000; and
  - iii. Vasopressin (optional), 1 mg

NOTE: Laryngoscopes may be reusable or disposable.

\*-or alternative drug approved by parish or component medical society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

### §6057. Ambulances

A. Any vehicle used as an ambulance must be designed and constructed by the manufacturer as such.

B. The following medical and safety equipment are requirements for certification of all ground ambulances operating within the state of Louisiana.

1. All ambulances must have a national standard public safety two-way radio communication (day-to-day communications). The ambulance dispatch center(s) and/or point(s) of dispatch must be capable of interactive two-way communications within all of the service's defined area.

2. Two-way radio with disaster communications must be VHF–National EMS Mutual Aid Frequency, V-MED 28, also known as the Hospital Emergency Activation Radio (HEAR) system 155.34 0 Mhz with carrier squelch, ENCODER optional.

3. Direct communication with a physician and hospital must be conducted through:

- a. HEAR; or
- b. wireless telephone;
- c. Radio Telephone Switch Station (RTSS); or
- d. Med. 10 System, etc.

4. All ambulances must carry the following basic medical supplies and equipment:

- a. one suction unit capable of providing a suction of at least 300 mm Hg;
- b. two wide bore tubing;
- c. two rigid pharyngeal tonsillar wide bore tip;
- d. a second suction unit that is portable;
- e. two each suction liners or refills, if required;
- f. two suction catheters, 5 fr, or 6 fr, or 5/6 fr;
- g. two suction catheters, 14 fr or larger;
- h. one portable oxygen cylinder, at least 500 psi, 2000 psi full, appropriate color;
- i. one portable oxygen regulator/ flowmeter, variable flow;
- j. one fixed oxygen cylinder, "M" or "O" cylinder, at least 500 psi, 2000 psi full, appropriate color or equivalent;
- k. one fixed oxygen regulator, variable flow;
- l. one oxygen wrench;
- m. one fixed oxygen flowmeter;
- n. one humidifier;
- o. four adult non-rebreather masks;
- p. four pediatric non-rebreather masks;
- q. four adult nasal prongs with supply tubing;
- r. two adult BVM with reservoir and supply tubing;
- s. two pediatric BVM with reservoir and supply tubing;
- t. two oral airways, adult;
- u. two oral airways, child;
- v. two oral airways, pediatric;
- w. one traction splint with ratchet, straps, and ankle hitch, adult;
- x. two extremity splints, upper;
- y. two extremity splints, lower;
- z. three extrication-type cervical collars, adult;
- aa. three extrication-type cervical collars–pediatric;
- bb. three cervical immobilization devices;
- cc. three long spine immobilization device with at least 3 points of confinement (one must be a clamshell device);
- dd. one short spine immobilization device with appropriate straps and pillows;
- ee. two burn sheets, sterile;
- ff. fifty small sterile dressings, 4" x 4" (at least 25 packs of 2);

gg. ten large combine dressings, sterile, 5" x 9" or larger;

hh. two multi-trauma dressings, 10" x 30" or larger or 18" x 24" military abdominal dressings;

ii. eight triangle bandages, commercial;

jj. ten soft roller bandages, 2" wide, unused rolls;

kk. six rolls of hypoallergenic adhesive tape, 1" and 2" or wider (no paper tape);

ll. two occlusive dressings, 3" x 8" petroleum gauze or commercial chest seal;

mm. four chemical cold packs;

nn. two liters normal saline for irrigation in plastic containers;

oo. sterile water, 500 cc or larger in plastic container;

pp. oral glucose, 12.5 mg (cake icing may be substituted);

qq. one aspirin, 325 mg (5 grain) or four aspirin, 81 grain pediatric;

rr. one albuterol inhalation solution, 2.5 mg with appropriate delivery device;

ss. three per crew member Mark I kits (.7 mg atropine and 2 PAM-V0);

tt. radio communication , Two-way disaster;

uu. radio communication, Two way EMT to physician;

vv. radio communication, Two way EMT to dispatch;

ww. one OB kit;

xx. one roll of aluminum or a silver swaddler;

yy. one blood pressure cuff, adult;

zz. one blood pressure cuff, pediatric;

aaa. one stethoscope;

bbb. one pair trauma shears;

ccc. one set of three triangle reflectors (or cyalume light sticks, or traffic; cones), set;

ddd. two flashlights, minimum of 2 "C" cell size with spare batteries and bulbs;

eee. twenty-five triage tags; and

fff. one supra glottis airway approved by the Louisiana EMS Certification Commission.

5. All ambulances must carry the following infection control supplies and equipment:

a. one box of non-sterile exam gloves;

b. one box of gloves, non latex;

c. two pair of full peripheral glasses with face masks, or fluid shields;

d. one per crew member, impervious gown or jump suit;

e. two readily identifiable trash bags, labeled for contaminated wastes;

f. one per crewmember jumpsuit/gown, impervious to liquid, disposable;

g. one pair per crew member shoe covers;

h. one sharps container, 1 quart;

i. one bottle or twelve towelettes of commercial antimicrobial hand cleaner;

j. two biohazard trash bags;

k. four N-95 masks;

l. one set per crew member, chemical resistant, full body coverage coverall with hood;

m. one pair per crew member, chemical resistant footwear;

n. one roll per crew member, chemical sealant tape (not duct tape);

o. one pair per crew member, chemical resistant goggle with a minimum of a N-95 mask.

6. All ambulances must be equipped with the following:

a. two fire extinguishers, 2:-10:B:C;

b. two blankets;

c. one current US DOT Hazardous Materials Guidebook;

d. one set per crew member, hard hat and safety goggles (ANZ! 37.1 or NFPA approved fire fighter turn out gear);

e. one pair per crew member, leather or nomex gauntlet gloves;

f. one per crew member, incident command vest with florescent trim and appropriate logos;

g. one stretcher, wheeled, multi-level;

h. one set of stretcher straps with at least three points of confinement, including shoulder harness; and

i. all ambulances that are not staffed and equipped to the EMT Paramedic level must carry:

i. one automated external defibrillator with electrodes and leads;

ii. one epinephrine auto injector adult, .30 mg; and

iii. one epinephrine auto injector, pediatric, .15 mg.

7. The following must be carried by all ambulances that are not staffed and equipped to the EMT Paramedic level:

a. an automated external defibrillator (either automatic or semi-automatic) with the appropriate lead cables and at least two sets of the appropriate disposable electrodes. If the automated defibrillator is also capable of manual defibrillation, then an appropriate lock-out mechanism (such as an access code, computer chip, or lock and key) to prevent unauthorized use of the device by those persons not authorized to manually defibrillate must be an integral part of the device;

b. two bags of IV fluids for KVO lines, D5W or isotonic 0.9 percent NaCl, 250 cc bag minimum;

i. all IV fluids must be in plastic bags or bottles, not glass bottles, unless medically indicated otherwise;

c. 4,000 cc IV fluids for volume expansion, Ringers' Lactate or 0.9% isotonic NaCl (these bags of saline do not include the bags or bottles of saline above for irrigation purposes):

i. all IV fluids must be in plastic bags or bottles, not glass bottles, unless medically indicated otherwise;

d. four sets of minidrip tubing;

e. four sets of macrodrip tubing;

f. one set of Y-type blood tubing;

g. two extension tubings;

h. one three-way stop cock;

i. four over-the-needle IV catheters, 14 gauge;

j. four over-the-needle IV catheters, 16 gauge;

k. four over-the-needle IV catheters, 18 gauge;

l. four over-the-needle IV catheters, 20 gauge;

m. four over-the-needle IV catheters, 22 gauge;

n. two venous tourniquets;

o. two syringes, 1 cc w/ .1cc graduations;

p. two syringes, 3cc to 6 cc;

q. two syringes, 10 cc to 12 cc;

r. two syringes, 30 cc w/ leur lock

s. two hypodermic needles, 21 to 23 gauge;

t. two hypodermic needles, 25 to 27 gauge;

u. one EPA or OSHA approved sharps container for use at the patient's side;

v. ten antiseptic solution wipes;

w. one IV pole or roof hook;

x. three arm boards of various sizes; and

y. one supra glotic airway device as approved by the Louisiana EMS Certification Commission.

8. The following must be carried by all paramedic level ambulances:

a. two intra osseus needles of preference;

b. one McGill forceps, adult;

c. one McGill forceps, pediatric;

d. one tube or five packets of water soluble lubricant not containing cellulose;

e. two endotracheal tubes, uncuffed, 3.0 to 3.5;

f. two endotracheal tubes, uncuffed, 4.0 to 4.5;

g. two endotracheal tubes, uncuffed, 5.0 to 5.5;

h. two endotracheal tubes, cuffed, 6.0 to 6.5;

i. two endotracheal tubes, cuffed, 7.0 to 7.5;

j. two endotracheal tubes, cuffed, 8.0 to 8.5;

k. two stylettes, adult;

l. two stylettes, pediatric;

m. one laryngoscope handle w/ 1 set of spare batteries and bulbs, or two disposable handle units;

n. one laryngoscope blade, Size 0, straight, or two disposable blades, Size 0, straight;

o. one laryngoscope blade, Size 1, straight, or two disposable blades, Size 1, straight;

p. one laryngoscope blade, Size 2, straight, or two disposable blades, Size 2, straight;

q. one laryngoscope blade, Size 3, straight or curved, or two disposable blades, Size 3, straight or curved;

r. one laryngoscope blade, Size 4, straight or curved, or two disposable, Size 4, straight or curved;

s. one cardiac monitor defibrillator with paper strip recorder;

t. two sets defib pads or gel;

u. one set of lead cables;

v. two sets of disposable monitoring electrodes;

w. one glucometer, CLIA approved;

x. two end tidal CO2 detection or monitoring devices;

y. analgesic:

i. one aspirin 5 grain or four 81 mg;

ii. morphine \*, 10 mg/ml;

z. anti-arrhythmic:

i. five Adenosine, 6 mg;

ii. four Atropine, pf, 1 mg;

iii. one Calcium Chloride, 10 percent, 1 gram;

iv. three Amiodorone (pre-filled), 150 mg or four Lidocaine, 100 mg pf bolus;

v. one Lidocaine, pm, 1 gram;

aa. Anti-convulsive:

i. one Valium \*, 10 mg/2 ml;

ii. two Mag Sulfate, 2 grams;

bb. Anti-histamine:

i. one Benadryl, 50 mg;

- cc. Bronco-dilators:
  - i. one Albuterol , 2.5 mg\*;
- dd. Cardio-vascular:
  - i. two Dopamine, pm, 200 mg;
  - ii. three NTG, .4mg Tablet or spray;
- ee. Diabetic control:
  - i. two D50W, 50 cc;
  - ii. two Glucagon, 1 mg;
- ff. Loop diuretic:
  - i. two Bumex, 2 mg or two Lasix, 80 mg;
- gg. Narcotic antagonist:
  - i. Naloxone, 2mg;
- hh. Vasopressors, 12 mg total;
  - i. at least two Epinephrine, 1 mg 1:1000;
  - ii. at least two Epinephrine, 1 mg 1:10000; and
  - iii. Vasopressin, 1 mg (optional).

NOTE: \*or alternative medication approved by the appropriate parish or component medical society.

C. All ambulances must have a functional air conditioner and heater in the patient compartment. They must function within the vehicle manufacturer's recommended guidelines or specifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

**Subchapter D. Emergency Vehicles—Aircraft  
Transportation**

**§6065. General Provisions**

A. All aircraft utilized as air ambulances must provide the department with a copy of their FAA Certificate of Registrations and Certificate of Air Worthiness. Upon request, they shall make their maintenance logs available to the department.

B. All air ambulances shall be equipped with the safety equipment required by the FAA.

C. All air ambulances shall be equipped with the medical and patient care equipment as recommended by the Air Ambulance Standards Committee and promulgated into the Administrative Rules of the Department of Health and Hospitals.

D. Until a specific list of medical equipment has been prepared and required by the department, air ambulances will carry the equipment that is mandated to them in protocol by the service's medical director.

E. An air ambulance provider must indicate to the department whether his air ambulances are fixed-winged or rotary winged.

F. All air ambulances shall be staffed to at least the advanced life support (EMT-paramedic) level.

G. Any equipment provided to ambulance services for their vehicles with grants from the U.S. Department of Health and Human Services, must be stocked on the vehicle in accordance with the provisions of the grant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:

**§6067. Emergency Aircraft—Rotary-Winged  
(Reserved)**

**§6069. Emergency Aircraft—Fixed (Reserved)  
Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821 9030. He is responsible for responding to inquiries regarding this proposed. A public hearing on this proposed Rule is scheduled for Tuesday, December 30, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Minimum Licensing Standards for  
Emergency Medical Transportation Services**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 08-09. It is anticipated that \$7,872 (SGF) will be expended in FY 08-09 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule adopts provisions governing the minimum licensing standards for ambulance and emergency medical response vehicle services, including ground and air transportation and adopts these provisions in a codified format for inclusion in the Louisiana Administrative Code (approximately 70 providers). It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 08-09, FY 09-10 and FY 10-11 because this rule is promulgating currently practiced national standards for emergency transportation services into the Louisiana Administrative Code.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jerry Phillips  
Medicaid Director  
0812#074

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospital Office of Public Health

Safe Drinking Water Program  
(LAC 51:XII.101, 313, 913, 1139,  
1507, 1509, and Chapter 19)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH-OPH), intends to amend Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51). These amendments are necessary in order that DHH-OPH may be able to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C. §300f, et seq.) primary implementing regulations (40 CFR Part 141).

Pursuant to the Safe Drinking Water Act Amendments of 1986 (Pub.L. 99-339/June 19, 1986), the then existing federal public notification regulations applicable to public water systems at the time were amended by the USEPA and were subsequently promulgated in the federal Public Notification Rule on October 28, 1987 (52 FR 41534-41550). On September 20, 1988 (LR 14:630), DHH-OPH adopted equivalent state regulations by reference. Technical amendments to the October 28, 1987 federal Public Notification Rule were published on April 17, 1989 by the USEPA (54 FR 15185-15188). Amendments to a portion of the public notification regulations were also included when DHH-OPH adopted the federal Total Coliform Rule (54 FR 27562-27567, June 29, 1989) by reference on July 20, 1991 (LR 17:670). Amendments to a portion of the public notification regulations were also included when DHH-OPH adopted the federal Phase II Rule (56 FR 3578-3597, January 30, 1991), the federal Lead and Copper Rule (56 FR 26547-26564, June 7, 1991), the federal Phase IIB Rule (56 FR 30274-30281, July 1, 1991), and the federal Phase V Rule (57 FR 31838-31849, July 17, 1992) by reference on May 20, 1994 (LR 20:545). The April 17, 1989 federal technical amendments mentioned previously, along with amendments to a portion of the federal public notification regulations as per the federal Technical Amendments and Clarifications for Phase I, II and V Rule (59 FR 34322-34325, July 1, 1994), were adopted by DHH-OPH by reference on May 20, 2000 (LR 26:1036) when the state's definition of the term "*National Primary Drinking Water Regulations*" first included a reference to Part 141 of Title 40 of the July 1, 1997 edition of the *Code of Federal Regulations*.

The proposed Rule herein is intended to amend DHH-OPH's existing public notification rule for public water systems. The Safe Drinking Water Act Amendments of 1996 (Pub.L. 104-182/August 6, 1996) required the USEPA to issue updated general public notification regulations. Subsequently, the USEPA amended the National Primary Drinking Water Regulations (40 CFR Part 141) on May 4,

2000 (65 FR 25981-26049) by promulgating a rule entitled "National Primary Drinking Water Regulations: Public Notification Rule; Final Rule". Technical corrections to the May 4, 2000 federal public notification rule were subsequently made on June 21, 2000 (65 FR 38629-38634), on June 30, 2000 (65 FR 40520-40522), and on November 27, 2002 (67 FR 70857-70858). The May 4, 2000 federal public notification regulations became effective for Louisiana public water systems at the federal level on May 6, 2002.

This proposed Rule will also amend DHH-OPH's existing Consumer Confidence Report Rule. The Consumer Confidence Report (CCR) is a form of public notification that is required to be distributed by community water systems to their customers on an annual basis. Distribution of the CCR does not necessarily mean that the water system experienced any violations, although it may have had. The purpose of the CCR is to provide information on the quality of the water delivered by the community water system and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. Technical corrections to the August 19, 1998 federal CCR rule [which DHH-OPH adopted by reference on August 20, 2000 (LR 26:1624)] were made by the USEPA on November 27, 2002 (67 FR 70855-70857).

It is the intent of this rulemaking to amend the current state regulations relative to public notification and the CCR by adopting the new federal public notification and CCR regulations by reference, along with adopting certain state discretionary items.

For the reasons set forth above, Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51:XII) is proposed to be amended as follows.

#### Title 51

### PUBLIC HEALTH—SANITARY CODE

#### Part XII. Water Supplies

#### Chapter 1. General

#### §101. Definitions [formerly paragraph 12:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows:

\*\*\*

#### *National Primary Drinking Water Regulations—*

a. drinking water regulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, et seq., and as published in the July 1, 2000 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141), less and except:

i. Subpart H—Filtration and Disinfection (40 CFR 141.70 through 40 CFR 141.75);

ii. Subpart M—Information Collection Requirements (ICR) for Public Water Systems (40 CFR 141.140 through 40 CFR 141.144); and

iii. Subpart P—Enhanced Filtration and Disinfection (40 CFR 141.170 through 141.175);

b. 40 CFR 141 drinking water regulation amendments promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as

the "Safe Drinking Water Act," 42 U.S.C.A. §300f, *et seq.*, and as published in the *Federal Register* dated January 16, 2001 (Volume 66, Number 10, pages 3769 through 3780), less and except:

i. any amendments contained therein applicable to 40 CFR 141.70 through 141.75; and

ii. any amendments contained therein applicable to 40 CFR 141.170 through 141.175;

c. 40 CFR 141 drinking water regulation amendments promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, *et seq.*, and as published in the *Federal Register* dated February 12, 2001 (Volume 66, Number 29, page 9903);

d. 40 CFR 141 drinking water regulation amendments promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, *et seq.*, and as published in the *Federal Register* dated November 27, 2002 (Volume 67, Number 229, pages 70855 through 70858); and

e. 40 CFR 141 drinking water regulation amendments promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, *et seq.*, and as published in the *Federal Register* dated June 29, 2004 (Volume 69, Number 124, pages 38855 through 38857), less and except:

i. any amendments contained therein applicable to 40 CFR 141.25 through 141.26;

ii. any amendments contained therein applicable to 40 CFR 141.70 through 141.76;

iii. any amendments contained therein applicable to 40 CFR 141.170; and

iv. any amendments contained therein applicable to 40 CFR 141.502 through 570.

f. When "Subpart H" or "Subpart P" is used within the actual text of the drinking water regulations cited in Subparagraphs a, b, c, d, or e of this Paragraph (definition), "LAC 51:XII.Chapter 11" shall be substituted therein.

\* \* \*

*Tier 1 Public Notice*—the form, manner, timing, and frequency required to notify the public of *National Primary Drinking Water Regulations* violations and/or situations (as well as violations and/or situations of §§913, 1139, 1317, 1507, and 1509) with a significant potential to have serious adverse effects on human health as a result of short-term exposure.

*Tier 2 Public Notice*—the form, manner, timing, and frequency required to notify the public of all other *National Primary Drinking Water Regulations* violations and/or situations (as well as violations and/or situations of §§913, 1139, 1317, 1507, and 1509) with a potential to have serious adverse effects on human health.

*Tier 3 Public Notice*—the form, manner, timing, and frequency required to notify the public for all other *National Primary Drinking Water Regulations* violations and/or situations (as well as violations and/or situations of §§913,

1139, 1317, 1507, and 1509) not included in *Tier 1 Public Notice* or *Tier 2 Public Notice*.

\* \* \*

**AUTHORITY NOTE:** The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 36:254 (B)(7), R.S. 40:4 (A)(8), R.S. 40:5 (2)(3)(5)(6)(17)(20), and R.S. 40:1148.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1318 (June 2002), amended LR 28:2513 (December 2002), amended LR 30:1194 (June 2004), amended LR 30:2326 (October 2004), amended LR 35:

### **Chapter 3. Water Quality Standards**

#### **§313. Reserved. [formerly paragraph 12:003-4]**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002), repealed LR 35:

### **Chapter 9. Louisiana Total Coliform Rule [formerly Appendix C]**

#### **§913. Public Notification [formerly Public Notification of Appendix C]**

A. Public notification shall be provided in accord with the requirements of the National Primary Drinking Water Regulations, as amended under Chapter 19 of this Part.

1. If a replacement sample can not be analyzed and give a readable result, the public water supply will be assessed a monitoring violation and must give appropriate public notification.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 40:4 (A)(8) and R.S. 40:5 (3)(5)(6)(17)(20).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002), amended LR 35:

### **Chapter 11. Interim Enhanced Surface Water Treatment Rule**

#### **Subchapter F. Public Notification**

#### **§1139. Consumer Notification**

A. - A.1. ...

B. Tier 1 Violations. When:

1. an event occurs which may affect the ability of the treatment plant to produce safe, potable water as specified under §1133.A.6 of this Chapter;

2. a waterborne disease outbreak occurs as specified under §1133.A.7 of this Chapter;

3. the combined filter effluent turbidity level exceeds 5.0 NTU; or,

4. other conditions/violations which are deemed by the state health officer, acting personally, as posing an acute risk to human health exist or occur;

5. the public water system shall, unless directed otherwise by the Office of Public Health in writing, furnish a notice to radio and television stations and daily newspapers serving the area as soon as possible but not later than 24 hours after the public water system learns of the violation or situation. The public water system shall also ensure that the actual public notice prepared by the water system is published in a daily or weekly newspaper serving the area as soon as possible but no later than 48 hours after learning of the violation or situation.

EXCEPTION: When furnishing a notice to radio and television stations, newspaper notice, or mailing is deemed not feasible for a non-community water system, continuous posting (in conspicuous places within the area served by the system) and, if available, e-mailing (to students or employees, for example) may be substituted. The notice shall remain posted for a minimum of at least 7 days.

C. Tier 2 Violations. When there is a failure to comply with a treatment technique requirement or performance standard as required in Subsection A of this Section, the public water system shall, unless directed otherwise by the Office of Public Health in writing, provide public notification in a daily or weekly newspaper serving the area as soon as possible but no later than 14 days after the violation or failure. In addition to newspaper notice, a notice shall also be provided to the consumers by direct mail or hand delivery within 30 days after the violation or failure.

EXCEPTION: When furnishing a notice to a newspaper is deemed not feasible for a non-community water system, continuous posting (in conspicuous places within the area served by the system) and, if available, e-mailing (to students or employees, for example) may be substituted. The notice shall remain posted for a minimum of at least 7 days.

D. Tier 3 Violations. The public water system shall notify persons served by the system in the manner approved by DHH whenever there is a failure to comply with the monitoring requirements specified in §§1123 or 1125 of this Chapter or the analytical requirements in §1105 of this Chapter. When there is a failure to comply with these monitoring or analytical requirements, the public water system shall, unless directed otherwise by the Office of Public Health in writing, provide public notification in a daily or weekly newspaper serving the area within 45 days of the violation or failure. In addition to newspaper notice, a notice shall also be provided to the consumers by direct mail or hand delivery within 90 days after the violation or failure.

EXCEPTION: When furnishing a notice to a newspaper is deemed not feasible for a non-community water system, continuous posting (in conspicuous places within the area served by the system) and, if available, e-mailing (to students or employees, for example) may be substituted. The notice shall remain posted for a minimum of at least 7 days.

E. Systems required to provide public notification shall otherwise be required to comply with the requirements of §1903 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:2527 (December 2002), amended LR 35:

## **Chapter 15. Approved Chemical Laboratories/Drinking Water**

### **Subchapter B. Procedures to Become an Approved Chemical Laboratory/Drinking Water**

#### **§1507. Application and Approval**

A. - D.1. . . .

2. Any sample results for a public water system which are officially deemed invalid for failure to have them analyzed in a certified chemical laboratory/drinking water may result in a monitoring violation if replacement samples are not collected and properly analyzed by a certified chemical laboratory/drinking water within the prescribed monitoring period. Any monitoring or analytical violations require public notification as prescribed in §1903 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1200 (June 2004), amended LR 35:

### **Subchapter C. Consequences of Non-Compliance §1509. Public Notification**

A. If it becomes apparent either through laboratory reporting, on-site visits, or any other means that the "DHH-OPH Approved Chemical Laboratory/Drinking Water" is either intentionally or unintentionally not using or improperly using the required analytical methodology to perform an accurate and precise determination of an analyst associated with drinking water, the "DHH-OPH Approved Chemical Laboratory/Drinking Water's" certificate of approval shall be immediately suspended or revoked by the state health officer, and all public water systems utilizing such laboratory shall provide public notification as prescribed in §1903 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1201 (June 2004), amended LR 35:

## **Chapter 19. Public Notification Rule §1901. General**

A. Pursuant to a revision of the state's definition of *National Primary Drinking Water Regulations (NPDWRs)* published in the September 20, 1988 *Louisiana Register* (LR 14:630), the Department of Health and Hospitals (DHH) Office of Public Health (OPH) adopted by reference the United States Environmental Protection Agency's (USEPA) revised Public Notification rule as published in the *Federal Register* dated October 28, 1987 (Volume 52, Number 208, pages 41534 through 41550). These revisions of the federal public notification regulations were as a result of the Safe Drinking Water Act Amendments of 1986 (Pub. L. 99-339 dated June 19, 1986). Technical amendments were made to the public notification regulations in the *Federal Register* dated April 17, 1989 (Volume 54, Number 72, pages 15185 through 15188). These April 17, 1989 federal technical amendments were adopted by DHH-OPH by reference when the state's definition of the *NPDWRs* first included a reference to Part 141 of Title 40 of the July 1, 1997 edition of the *Code of Federal Regulations*. Amendments to a portion of the public notification regulations were also included when DHH-OPH adopted the federal Total Coliform Rule which was published in the *Federal Register* on June 29, 1989 (Volume 54, Number 124, pages 27562 through 27567) by reference. Amendments to a portion of the public notification regulations were also included when DHH-OPH adopted the federal Phase II Rule published in the *Federal Register* on January 30, 1991 (Volume 56, Number 20, pages 3578 through 3597), the federal Lead and Copper Rule published in *Federal Register* on June 7, 1991 (Volume 56, Number 110, pages 26547 through 26564), the federal Phase IIB Rule published in the *Federal Register* on July 1, 1991 (Volume 56, Number 126, pages 30274 through 30281), and the federal Phase V Rule published in the *Federal Register* on July 17, 1992 (Volume 57, Number 138, pages 31838 through 31849) by reference. Amendments to a portion of the federal public notification regulations as per the federal Technical Amendments and Clarifications for Phase I, II and V Rule published in the *Federal Register* on July 1, 1994 (Volume 59, Number 126, pages 34322 through

34325) were also adopted by DHH-OPH by reference when the state's definition of the *NPDWRs* first included a reference to Part 141 of Title 40 of the July 1, 1997 edition of the *Code of Federal Regulations*.

1. The federal public notification regulations were amended once again by the USEPA pursuant to the Safe Drinking Water Act Amendments of 1996 (Pub. L. 104-182 dated August 6, 1996). Pursuant to yet another DHH-OPH revision of the definition of *NPDWRs*, published in the [final date of this rule, for example, March 20, 2009] *Louisiana Register* (LR 35:000), and the provisions of §377 of this Part, the DHH-OPH adopted by reference the USEPA federal Public Notification Rule as published in the *Federal Register* dated May 4, 2000 (Volume 65, Number 87, pages 25981 through 26049) as well as additional technical corrections to the Public Notification Rule as published in the *Federal Register* dated June 21, 2000 (Volume 65, Number 120, pages 38629 through 38634), the *Federal Register* dated June 30, 2000 (Volume 65, Number 127, pages 40520 through 40522), and the *Federal Register* dated November 27, 2002 (Volume 67, Number 229, pages 70857 through 70858). The regulations in this Chapter are promulgated in order to clarify the state's discretionary decisions allowed by the federal requirements. [As stated in §377 of this Part, be advised that when the *NPDWRs* (as defined in this Part) and the state's own rules and/or regulations applicable to public water systems conflict, then the state's own rules and/or regulations shall govern.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 35:

### **§1903. Public Notification [formerly §313]**

A. If a public water system fails to comply with an applicable maximum contaminant level, treatment technique requirement, or analytical requirement as prescribed by this Code or fails to comply with the requirements of any schedule prescribed pursuant to a variance or exemption, or fails to perform any monitoring required by this Code, the public water system shall notify persons served by the system of the failure in a manner prescribed by the National Primary Drinking Water Regulations (as defined in this Part), §§ 913, 1139, 1317, 1507, 1509, and the Public Notification Rule (Chapter 19 of this Part), as applicable.

B. In addition, if a public water system fails to report required analytical data to the appropriate office designated by the state health officer within the applicable time limit(s) stipulated by the National Primary Drinking Water Regulations (as defined in this Part), the Louisiana Total Coliform Rule (Chapter 9 of this Part), the Interim Enhanced Surface Water Treatment Rule (Chapter 11 of this Part), the Stage I Disinfectants and Disinfection Byproducts Rule (Chapter 13 of this Part), or the Approved Chemical Laboratories/Drinking Water Rule (Chapter 15 of this Part), and such data (e.g., turbidity measurements, corrosion control chemical concentrations, etc.) is required to determine a maximum contaminant level or treatment technique requirement prescribed by this Code, the public water system shall be assessed a monitoring violation and must give appropriate public notification.

C. With the exception of Tier 1 public notification which requires a more prompt certification response (see §1905.A), the water supply, within 10 days subsequent to the

completion of each public notification shall submit to the state health officer a completed public notification certification form and a representative copy of each type of notice distributed, published, posted and/or made available to the persons served by the supply and/or to the news media.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 35:

### **§1905. Tier 1 Public Notice**

A. Delivery. When a Tier 1 public notice is required under the National Primary Drinking Water Regulations, §913, §1139.B, or §1317.A.1 of this Part, and after consultation with the Office of Public Health (see Subsection C of this Section for after-hours contact procedures), the public water system shall, unless directed otherwise by the Office of Public Health in writing, furnish a notice to broadcast media (such as radio and television stations) and daily newspapers serving the area as soon as possible but not later than 24 hours after the public water system learns of the violation or situation. The public water system shall also ensure that the actual public notice prepared by the water system is published in a daily or weekly newspaper serving the area as soon as possible but no later than 48 hours after the violation or failure.

EXCEPTION: When furnishing a notice to radio and television stations, newspaper notice, or mailing is deemed not feasible for a non-community water system, continuous posting (in conspicuous places within the area served by the system) and, if available, e-mailing (to students or employees, for example) may be substituted. The notice shall remain posted for a minimum of at least 7 days.

B. Immediate Certification of Completion of 24 hour Notification. As soon as possible, but not later than 24 hours after providing public notice to the broadcast media and daily newspapers as required under §1905.A, the public water system shall deliver or fax a completed public notice certification form (including a copy of the actual public notice provided) to the Office of Public Health's District Engineering Services Section office which oversees the water system. The purpose of this form is for the water system to confirm to the Office of Public Health that Tier 1 public notice has been completed. Should the Office of Public Health's District Engineering Services Section office fail to receive the completed public notice certification form within 24 hours after the system should have completed providing the Tier 1 public notice, the Office of Public Health is authorized to issue Tier 1 public notice directly to the broadcast media and newspapers and to take other measures to ensure that the public is notified. The owner or operator of the public water system remains responsible for ensuring that the requirements of this Chapter are met.

C. Consultation/Certification with the Office of Public Health during weekends and state holidays and other times of office closure. Should the need for consultation with and/or the need to provide certification to the Office of Public Health occur during a weekend, state holiday, or other times of state office closure, the public water system shall contact the Office of Public Health's Safe Drinking Water Program via BlackBerry® (or equivalent smartphone) by e-mail communication to: "safe.water@la.gov". Besides stating the need to consult with and/or the need to provide certification to the Office of Public Health, the e-mail

message should additionally provide the name of the public water system, the Office of Public Health PWS ID # (for example, PWS ID #1095009) which has been assigned to identify your water system, the name of the person sending the e-mail communication, and a telephone number (with area code) so that a Safe Drinking Water Program staff member can in turn speak with whoever sent the e-mail. [In most cases, it is expected that your own district or regional engineer will be returning the call (even when the office is closed) in order to consult directly with you on your problem or situation.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 35:

#### **§1907. Tier 2 Public Notice**

A. When a Tier 2 public notice is required under the National Primary Drinking Water Regulations, §913 or §1139.C of this Part, the public water system shall, unless directed otherwise by the Office of Public Health in writing, provide public notification in a daily or weekly newspaper serving the area as soon as possible but no later than 14 days after the violation or failure. In addition to newspaper notice, a notice shall also be provided to the consumers by direct mail or hand delivery within 30 days after the violation or failure.

EXCEPTION: When furnishing a notice to a newspaper is deemed not feasible for a non-community water system, continuous posting (in conspicuous places within the area served by the system) and, if available, e-mailing (to students or employees, for example) may be substituted. The notice shall remain posted for a minimum of at least 7 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 35:

#### **§1909. Tier 3 Public Notice**

A. When a Tier 3 public notice is required under the National Primary Drinking Water Regulations, §913, §1139.D, §1507.D.2 or §1509.A of this Part, the public water system shall, unless directed otherwise by the Office of Public Health in writing, provide public notification in a daily or weekly newspaper serving the area as soon as possible but no later than 45 days after the violation or failure. In addition to newspaper notice, a notice shall also be provided to the consumers by direct mail or hand delivery within 90 days after the violation or failure.

EXCEPTION: When furnishing a notice to a newspaper is deemed not feasible for a non-community water system, continuous posting (in conspicuous places within the area served by the system) and, if available, e-mailing (to students or employees, for example) may be substituted. The notice shall remain posted for a minimum of at least 7 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 35:

#### **§1911. Public Notice for Certain Violations of Specific Drinking Water Rules**

A. Louisiana Total Coliform Rule. Also refer to §913 of this Part.

B. Interim Enhanced Surface Water Treatment Rule. Also refer to §1139 of this Part.

C. Stage I Disinfectants and Disinfection Byproducts Rule. Also refer to §1317 of this Part.

D. Approved Chemical Laboratories/Drinking Water. Also refer to §§1507 and 1509 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 35:

#### **Family Impact Statement**

1. The Effect on the Stability of the Family. No effect on the stability of the family is anticipated as a result of this proposed rulemaking.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. No effect on the authority and rights of parents regarding the education and supervision of their children is anticipated as a result of this proposed rulemaking.

3. The Effect on the Functioning of the Family. No effect on the functioning of the family is anticipated as a result of this proposed rulemaking.

4. The Effect on the Family Earnings and Family Budget. No effect on the family earnings and family budget is anticipated as a result of this proposed rulemaking.

5. The Effect on the Behavior and Personal Responsibility of Children. No effect on the behavior and personal responsibility of children is anticipated as a result of this proposed rulemaking.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. No effect on the family to perform the function as contained in the proposed Rule is anticipated as a result of this proposed rulemaking. As regards the local government's ability to perform the function as contained in the proposed Rule, they are expected to be only mildly impacted by this proposed Rule (if the particular local government in question owns or operates a public water system). All public water system owners and operators have already been required to comply with the U.S. Environmental Protection Agency's revised public notification requirements on a federal level since May 6, 2002.

DHH-OPH will conduct a public hearing at 10 a.m. on Tuesday, January 27, 2009, in Room 671/673 of the Bienville Building, 628 North Fourth Street, Baton Rouge, LA. Persons attending the hearing may have their parking ticket validated when one parks in the 7-story Galvez Parking Garage which is located between N. Sixth and N. Fifth / North and Main Sts. (catercorner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

In addition, all interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than Friday, January 30, 2009 at COB, 4:30 p.m., and should be addressed to Ms. Karen Irion, Chief, Engineering Services, Center for Environmental Health Services, Office of Public Health, CEHS Mail Bin #3, P.O. Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7303. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 N. Fourth Street - Room 134, Baton Rouge, LA 70802.

Alan Levine  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Safe Drinking Water Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The Rule proposes to amend Part XII (Water Supplies) of the State Sanitary Code (LAC 51) to comply with the latest United States Environmental Protection Agency (USEPA) regulations regarding the public notification of drinking water violations by public water systems, which became effective May 6, 2002. The federal regulations changed the reporting structure from a 2-Tier Level for reporting acute, non-acute, and minor violations to a 3-Tier Level for reporting acute, non-acute, and minor violations as well as some of the time requirements for reporting these violations. This rule adopts the new 3-Tier level structure and the changes in the time requirements for reporting drinking water violations in those instances where the federal regulations are stricter than the State of Louisiana.

This Rule also proposes to adopt technical changes to the current Consumer Confidence Report regulation relative to the health effects language that would be required to be published if a public water system experienced a maximum contaminant level violation in the drinking water for di(2-ethylhexyl) adipate (DEHA) and di(2-ethylhexyl) phthalate (DEHP). DEHA and DEHP are some of the specific synthetic organic chemicals regulated under the current drinking water rule.

For FY 08-09, the proposed Rule changes will result in an estimated cost to DHH-OPH of \$1,531 to publish the notice of intent and the final rule in the Louisiana Register. In addition, OPH will purchase a Blackberry or equivalent smartphone for the central office so that public water systems can contact an OPH Engineering Services Section staff member when the OPH offices are closed on weekends and holidays. The cost for the Blackberry and the various service fees is estimated to be \$1,470. The total estimated cost for FY 08-09 is \$3,001. For FY 09-10 the cost is estimated to be \$1,205 and \$1,241 for FY 10-11. These costs reflect service fees only with a 3% inflation rate for each year. OPH will use existing Self-generated Revenues from administrative fees collected by the Safe Drinking Water Program to fund these costs in all three fiscal years.

There are no anticipated costs for state or local governmental units that own a public water system because these changes only impact reporting time periods for violations. These water systems have been required to comply with the public notification changes since May 6, 2002.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no effects on revenue collections of the state or local governmental units anticipated as a result of promulgation of this regulation.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no anticipated costs for persons and non-governmental groups that own a public water system (such as a mobile home park owned by an individual or company and having its own water well to supply the potable water needs of the park inhabitants) because these changes only impact the reporting time requirements for drinking water violations. These water systems have been required to comply with the public notification changes since May 6, 2002.

This rule will be an economic benefit to the public since the stricter time reporting requirements for drinking water violations allows for the public to be notified sooner of drinking water issues, which could prevent illnesses that result from water contaminants.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No effect is anticipated on competition and employment.

M. Rony Francois, M.D., MSPH, Ph.D.  
Assistant Secretary  
0812#083

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Insurance  
Office of the Commissioner**

**Regulation 93—Named Storm and Hurricane Deductibles  
(LAC 37:Part XIII.Chapter 135)**

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq. and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Department of Insurance (LDOI) gives notice that rulemaking procedures have been initiated to promulgate Regulation 93. Adoption of the proposed regulation is authorized by Acts 2008, No. 854 of the Regular Session of the Louisiana Legislature.

Act 854 permits an insurer to make a filing with the Louisiana commissioner of insurance pursuant to R.S. 22:1407 for authorization to deviate from the provisions of R.S. 22:635.3(C) and 22:636.2(D) for the purpose of changing the policy deductible to a total deductible of not more than 4 percent of the value of the property being insured for named storms or hurricanes on a homeowner's policy of insurance that has been in effect for more than three years.

Any insurer filing for authorization to deviate from the provisions of R.S. 22:635.3(C) and 22:636.2(D) pursuant to Act 854 shall file with the commissioner a business plan setting forth the insurer's plan to write new business in the particular region or area of the state in which the new deductible is to apply. The commissioner's approval is to be based on the insurer's commitment to the writing of new business in the respective region or area of the state in which the new deductible is to apply.

**Title 37**

**INSURANCE**

**Part XIII. Regulations**

**Chapter 135. Regulation Number 93—Named Storm and Hurricane Deductibles**

**§13501. Authority**

A. Regulation 93 is issued pursuant to the authority vested in the commissioner pursuant to the provisions of R.S. 49:953 et seq., of the Administrative Procedure Act; R.S. 22:3, R.S. 22:635.3(D) and 22:636.2(E).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:635.3(D) and 22:636.2(E).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:

**§13503. Purpose**

A. The purpose of Regulation 93 is to implement the provisions of Acts 2008, No. 854 of the Regular Session of the Louisiana Legislature, which allows an insurer to make a filing to deviate from the requirements of R.S.22:635.3(C) and 22:636.2(D) concerning deductibles for named storms and hurricanes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:635.3(D) and 22:636.2(E).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:

### §13505. Scope and Applicability

A. Regulation 93 applies to authorized property and casualty insurers required to submit rates and rating plans for residential property insurance to the Louisiana Department of Insurance.

B. Regulation 93 applies to approved unauthorized insurers, i.e., surplus lines.

C. Regulation 93 applies to modular homes.

D. Regulation 93 does not apply to commercial properties or commercial residential properties with three or more units.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:635.3(D) and 22:636.2(E).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:

### §13507. Definitions

A. As used in Regulation 93, these terms shall have the following meaning ascribed herein unless the context clearly indicates otherwise.

*Commissioner*—the Commissioner of Insurance for the state of Louisiana.

*Department*—Louisiana Department of Insurance.

*Deductible*—a named storm or hurricane deductible as defined in a policy of homeowners' insurance.

*Homeowners Insurance*—a policy of insurance on a one- or two-family owner-occupied premises, which combines fire and allied lines with any one or more perils of casualty, liability, or other types of insurance within one policy form at a single premium, where the insurer's liability for damage to the premises under said policy is determined with reference to the replacement value of the premises, but does not include insurance policies written to cover manufactured homes or mobile homes.

*New Business*—the issuance of a new policy of homeowners' insurance.

*Region*—a designated and contiguous geographic area of the state identified by an insurer for the purpose of establishing regional deductibles pursuant to R.S. 22:635.3.D and R.S. 22:636.2.E.

*Regional Deductible*—a specified named storm deductible or hurricane deductible established by an insurer for a particular region.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:635.3(D) and 22:636.2(E).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:

### §13509. Business Plan

A. An insurer that makes a filing pursuant to R.S. 22:1407 for authorization to deviate from the requirements of R.S.22:635.3(C) and 22:636.2(D) concerning deductibles for named storms and hurricanes shall file with the commissioner a business plan setting forth the insurer's plan to write new business in the state of Louisiana. The business plan shall include, but not be limited to the following:

1. a written description of each proposed region for which mandated, minimum regional deductibles will vary;
2. a statewide graphic representation of each proposed region for which mandated, minimum regional deductibles will vary;

3. the proposed mandated minimum regional deductible for each proposed region;

4. for each region where the proposed regional deductible differs from the existing deductible, the insurer shall indicate in the business plan the methods by which it intends to write new business;

5. for each region where the proposed regional deductible is the same as the existing deductible, the insurer shall make a statement to that effect;

6. for the most recent quarter available, the number of policies in force and premium in force (at current rate level) in each proposed region, categorized by the current deductible on the policy;

7. for the most recent quarter available and categorized by the current deductible on the policy, the number of policies in force in each proposed region expected to be rolled to the proposed mandated minimum regional deductible;

8. for the most recent quarter available and categorized by the current deductible on the policy, the premium in force (at current rate level) adjusted to reflect the proposed mandated minimum regional deductible;

9. for the most recent quarter available and categorized by the current deductible on the policy, the difference between the current and the expected premium, represented in both premium dollars and percentage change from the policy premiums before policies are rolled to the proposed mandated minimum regional deductibles; and

10. for each proposed mandated minimum regional deductible, the premium credit associated with selected regional deductible.

B. The business plan submitted by an insurer may include documentation or information setting forth why writing new business in a particular region may not be in the best interest of the insurer's policyholders. Factors to be considered in determining whether writing new business is not in the best interest of the insurer's policyholders may include but not be limited to the following:

1. the insurer's total market share based on the insurer's total written premium in the particular region or area;

2. the insurer's total market share based on the insurer's total written premium in the state;

3. the insurer's probable maximum loss (PML) based on the amount of risk the insurer has written in the state;

4. the insurer's total homeowners insurance policies in force in the particular region or area;

5. the insurer's total homeowners insurance policies in force in the state;

6. whether the rate filing and deductible are needed to ensure the insurer's ability to meet its ongoing obligations to its policyholders;

7. whether the rate filing and deductible are needed to ensure the insurer has adequate loss reserves;

8. whether the rate filing and deductible are needed to ensure the insurer's ability to remain competitive in the market;

9. whether the rate filing and deductible are needed to ensure the insurer's ability to adequately manage its business and the risk it has assumed; and

10. any other factors that the commissioner determines are applicable, relevant, and appropriate.

C. Any business plan, documentation or information filed pursuant to Subsections A and B of this Section shall be considered proprietary or trade secret pursuant to the provisions of R.S. 44:3.2 and the Uniform Trade Secrets Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:635.3(D) and 22:636.2(E).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:

#### **§13511. Rescission**

A. The commissioner may subsequently rescind his approval of any filing made pursuant to this Subsection if the insurer fails to write new business in accordance with the business plan filed with and approved by the commissioner pursuant to R.S. 22:635.3(D) and 22:636.2(E).

B. If a filing made pursuant to R.S. 22:635.3(D) and 22:636.2(E) has been approved and in effect for at least 180 days, any rescission by the commissioner shall set forth the date when such rescission shall be effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:635.3(D) and 22:636.2(E).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:

#### **§13513. Notification to Insured of Premium Savings**

A. Any insurer receiving approval to deviate from the requirements of R.S. 22:635.3(C) and 22:636.2(D) concerning deductibles for named storms and hurricanes as a result of a filing made pursuant to Regulation 93 and R.S. 22:635.3(D) and 22:636.2(E) shall itemize and notify the insured of the premium savings associated with the new deductible by indicating the dollar amount of the premium savings on the renewal notice or as a separate insert with the renewal notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:635.3(D) and 22:636.2(E).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:

#### **§13515 Multiple Deductibles**

A. Any homeowners policy of insurance that contains any provision that would apply more than one deductible to a loss resulting from any single incident covered by the policy shall be null and void and unenforceable as contrary to public policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:635.3(D) and 22:636.2(E).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:

#### **§13517. Severability**

A. If any Section or provision of Regulation 93 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 93 to any persons or circumstances that can be given effect without the invalid Section or provision or application, and for these purposes the Sections and provisions of Regulation 93 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:635.3(D) and 22:636.2(E).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:

#### **§13519. Effective Date**

A. Regulation 93 shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 to enforce the provisions of R.S. 22:635.3(D) and 22:636.2(E).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:

#### **Family Impact Statement**

Pursuant to R.S. 49:953.A(1)(a)(viii) the commissioner for the LDOI states that there will be no adverse impact on family formation, family stability, and family autonomy, as set forth in R.S. 49:972 from the promulgation of Regulation 93.

Persons interested in obtaining copies of Regulation 93 or in making comments relative to this proposal may do so at the public hearing to be held January 29, 2009, at 10 a.m., in the Poydras Hearing Room of the Louisiana Department of Insurance Building, 1702 N.Third Street, Baton Rouge, LA or by writing to Walter Corey, Attorney, 1702 N. Third Street, Baton Rouge, LA 70802. Written comments will be accepted through the close of business on January 29, 2009.

Warren E. Byrd  
Executive Counsel

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Regulation 93—Named Storm and Hurricane Deductibles**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Louisiana Department of Insurance (DOI) does not anticipate any implementation costs (savings) as a result of the proposed administrative rules. The DOI anticipates utilizing existing resources and staff to implement the requirements of such rules.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Proposed Regulation 93 will have no impact on state or local governmental revenues.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Due to this program being voluntary, property and casualty insurance companies should not incur any additional costs due to the proposed administrative rules, which allow property and casualty insurance companies to make insurance filings deviating from the requirements of R.S. 22:653.3(C) and R.S. 22:636.2(D) concerning named storm/hurricane deductibles. There could be economic benefit to insurance companies, but it is not measurable.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Implementation of the proposed Regulation 93 should have no significant impact upon competition and employment in the state.

James J. Donelon  
Commissioner of Insurance  
0812#086

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Public Safety and Corrections Corrections Services

#### Searches of Visitors (LAC 22:I.303)

In accordance with the provisions of the Administrative Procedure Act (R.S.49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of §303, Searches of Visitors.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part I. Corrections

#### Chapter 3. Adult Services

#### §303. Searches of Visitors

A. Purpose. To establish the secretary's policy regarding searches of visitors at state correctional facilities and to set forth the procedures to be followed when searching visitors.

B. Applicability. Deputy Secretary, Chief of Operations, Assistant Secretary, Regional Wardens and Wardens. Each warden is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation and for implementing and notifying all affected persons of its contents.

C. Policy. The United States and Louisiana Constitutions prohibit unreasonable searches. Pursuant to R.S. 14:402, it is a crime to bring contraband into a correctional facility. Therefore, it is the secretary's policy to respect the prohibition against unreasonable searches while acting in the public interest to halt the flow of contraband into correctional facilities under the jurisdiction of the department through implementation of a policy regarding visitor searches. Such searches shall be conducted in a professional manner that minimizes indignity to the visitor while still accomplishing the objective of the search. Only staff trained in effective search techniques shall conduct searches.

#### D. Definitions.

*He/His*—pronouns which include both male and female unless specifically stated otherwise.

*Health Care Personnel*—individuals whose primary duty is to provide health services to offenders in keeping with their respective levels of health care training, experience and authority.

*Institutional Grounds*—any tract of land owned by the state which is under the control of the Department of Public Safety and Corrections, Corrections Services.

NOTE: Parking lots are also part of the institutional grounds whether fenced or not.

*Official Institutional Guest*—includes, but is not limited to: law enforcement officers; employees of the department who are based at headquarters or other units; elected officials; approved news media representatives; members of the Parole Board and the Pardon Board; judges; magistrates; commissioners of the Nineteenth Judicial District Court and court reporters who accompany them; civil service referees and other institutional guests as designated by the warden. (It is anticipated that official institutional guests would primarily be under staff escort or observation while on institutional grounds.)

#### Personal Searches—

a. *Property Search*—a search of personal property brought onto institutional grounds including, but not limited to, vehicles, lunchboxes, purses, coats, jackets and briefcases.

b. *Pat-Down Search (Also Frisk Search)*—a search of a fully clothed visitor for the purpose of discovering contraband. Pat-down searches are conducted by an employee of the same sex.

i. The visitor being searched may be required to empty his pockets, purse or any other item in his control where contraband may be stored or carried.

ii. The visitor being searched may be required to remove any wig or hairpiece being worn. This portion of the search must be conducted in a private place and out of the view of others.

iii. The visitor being searched may also be required to remove all outerwear (coats, jackets, hats, caps, belts, gloves, shoes, socks, etc.) in order for these items to be inspected. He may also be required to run his hands through his hair and to open his mouth for inspection. The visitor will not be required to remove articles of clothing, which are the visitor's basic dress (shirt, pants, dress, skirt, etc.)

iv. The person conducting the search shall use his hands to touch the visitor being searched, through his clothes, in such a manner to determine if something is being concealed. If the person conducting the search discovers an unusual lump, bulge, etc., he may order the visitor being searched to disclose the source. Failure to comply with this order constitutes reasonable suspicion to conduct a general search or a strip search and/or to refuse the visit.

c. *General Search*—a search whereby a visitor is required to remove his clothing down to his underwear (shorts for male visitors and camisole or bra and panties for female visitors) in order that the clothing may be inspected for contraband and the visitor's person be visually observed. Visitors who claim they are not wearing underwear will still be required to remove their basic dress. This search shall be conducted in a private place by an employee of the same sex as the visitor being searched and out of the view of others.

d. *Strip Search*—a visual search of a visitor's nude body, conducted by employees of the same sex as the visitor. Strip searches shall be conducted in a private place and out of the view of others. The visitor being searched may be required to bend over, squat, turn around, raise his arms and lift the genitals. (The foregoing list is exemplary, not exclusive.) The clothing of the visitor being searched shall be thoroughly inspected prior to returning it. Strip searches shall be conducted in a respectful and dignified manner.

e. *Visual Body Cavity Search (Strip Search/Genital Examination)*—a search having the characteristics of a strip search with the addition of a visual search of the anal and/or vaginal openings, whereby the visitor being searched is required to open the cheeks of the buttocks and/or the lips of the vagina. The visitor's clothing shall also be thoroughly inspected prior to returning it. Such searches shall be conducted by officers of the same sex as the visitor, in private and based on articulable factors that the visitor is carrying contraband.

f. *Body Cavity Search*—a search of a person's body cavities conducted by trained health care personnel only.

*Probable Cause*—articulable factors supported by reasonable suspicion that contraband is being concealed. Probable cause exists when facts and circumstances within the officer's knowledge and about which he has reasonable trustworthy information are sufficient to support a reasonable suspicion that an offense has been or will be committed and that contraband may be found at the place to be searched or on the visitor.

*Reasonable Suspicion*—suspicion supported by facts and circumstances which lead an employee of ordinary caution to believe that a visitor is concealing contraband in or on his body. Factors to consider in determining reasonable suspicion include, but are not limited to, the following:

- a. nature of the tip or information;
- b. reliability of the informant;
- c. degree of corroboration of the tip or other information; or
- d. other facts contributing to suspicion.

*Visitor*—any non-offender or non-employee of the department who is on institutional grounds for any authorized visit, or who is attempting to gain entry to the grounds for a visit, to conduct business with staff, for purposes of a tour or as a volunteer, etc.

#### E. When Searches Are Permitted

##### 1. Property Search

a. Property searches of visitors may be conducted at any time when deemed appropriate by the warden or designee.

b. Property searches of official institutional guests may be conducted at any time, but would generally be conducted only when there is reasonable suspicion that the guest may be in possession of contraband.

##### 2. Pat-Down Search

a. Pat-down searches of visitors may be conducted at any time when deemed appropriate by the warden or designee.

b. Pat-down searches of official institutional guests should be conducted only when there is reasonable suspicion that a guest may be in possession of contraband.

3. General Search. General searches of visitors or official institutional guests may be conducted when there is reasonable suspicion and/or probable cause directed toward a specific visitor. However, institutional officials must point to specific objective facts and rational inferences that they are entitled to draw from those facts. Absent reasonable suspicion directed toward the specific individual, these searches are prohibited. (The consent of a visitor to such a search does not make the search permissible, absent reasonable suspicion directed toward the visitor.) The search shall be conducted by one officer and witnessed by one additional officer or staff member of the same sex as the visitor or official institutional guest and in a location out of the view of others. The warden or designee shall give prior written approval for this search.

a. The search shall be documented in the Visitor Shakedown Log by the employees who conducted the search. Additionally, the circumstances giving rise to the search and the search results shall be documented on an Unusual Occurrence Report (UOR.)

4. Strip Search. Strip searches of visitors or official institutional guests may be conducted when there is reasonable suspicion and/or probable cause directed toward

the specific visitor. However, institutional officials must point to specific objective facts and rational inferences that they are entitled to draw from those facts. Absent reasonable suspicion directed toward the specific individual, these searches are prohibited. (The consent of a visitor to such a search does not make the search permissible, absent reasonable suspicion directed toward the visitor.) The search shall be conducted by one officer and witnessed by one additional officer or staff member of the same sex as the visitor or official institutional guest and in a location out of the view of others. The warden or designee shall give prior written approval for this search.

a. A strip search shall be documented and reported as described in Paragraph E.3 of this policy.

5. Visual Body Cavity Search. A visual body cavity search of visitors or official institutional guests may be conducted when there is reasonable suspicion and/or probable cause directed toward the specific visitor. However, institutional officials must point to specific objective facts and rational inferences that they are entitled to draw from those facts. Absent reasonable suspicion directed toward the specific individual, these searches are prohibited. (The consent of a visitor to such a search does not make the search permissible, absent reasonable suspicion directed toward the visitor.) The search shall be conducted in the presence of at least two officers of the same sex as the visitor or official institutional guest and in a location out of the view of others. The warden or designee shall give prior written approval for this search.

a. A visual body cavity search shall be documented and reported as described in Paragraph E.3 of this policy.

6. Body Cavity Search. When a visual body cavity search creates reasonable suspicion and/or probable cause directed toward the specific individual, a body cavity search of the visitor or official institutional guest may be conducted. However, institutional officials must point to specific objective facts and rational inferences that they are entitled to draw from those facts. Absent reasonable suspicion directed toward an individual, these searches are prohibited. (The consent of a visitor to such a search does not make the search permissible, absent reasonable suspicion directed toward the visitor.)

a. Trained health care personnel only shall conduct a body cavity search and perform any necessary extraction. The visitor or official institutional guest must be searched in a sanitary manner and in a sanitary location in accordance with standard medical practice. The warden or designee shall give prior written approval for this search.

b. A body cavity search shall be documented and reported as described in Paragraph E.3 of this policy.

F. Searches by Drug-Sniffing Dogs. Searches of a visitor's or official institutional guest's property by trained drug-sniffing dogs may be conducted at any time.

G. When Contraband Is Not Found during a Search. The visitor or official institutional guest may proceed if the visitor or official institutional guest to whom reasonable suspicion and/or probable cause is directed consents to the search and no contraband is found.

H. When a Visitor or Official Institutional Guest Refuses to be Searched or Contraband Is Found during a Search. Should the visitor or official institutional guest refuse to be searched or contraband is found during a search, pursuant to

C.Cr.P. Art. 215.2, the warden or designee may notify law enforcement officials and may detain the visitor or official institutional guest for the length of time necessary for law enforcement to arrive and arrest the visitor or official institutional guest or for the procurement of a search warrant. The detention shall not constitute an arrest.

I. Disposition of Contraband. Pursuant to R.S. 14:402(F), any contraband which is seized may be destroyed, donated to a charitable organization or put to lawful use within the institution, unless it is needed as evidence in a criminal prosecution. However, any money seized which is legal tender shall be placed in a fund at the institution to be used solely for the purchase of contraband detection and escape chase team equipment. A record of the disposition of all contraband shall be maintained for the greater of either three years or the completion of any criminal proceedings arising from the incident.

J. Suspension of Visiting Privileges. If contraband is found on any visitor or official institutional guest or if any visitor or official institutional guest refuses to be searched or refuses to allow his property to be searched as provided in Section 7. or violates any other institutional rules, that particular visit may be halted, the visitor or official institutional guest told to leave the institution and action taken as appropriate to suspend future visits to the institution.

a. If the offense is such that the warden desires to remove the visitor from the offender's visitor list (either indefinitely or for a fixed period of time) the established procedures shall be followed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:402.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 12:443 (July 1986), amended LR 35:

**Family Impact Statement**

Amendment to the current Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on January 8, 2009.

James M. Le Blanc  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Searches of Visitors**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This is a technical adjustment to an existing regulation. There will be no fiscal impact with repealing and implementing the new regulation.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units since this is a technical adjustment.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There is no estimated cost or economic benefit to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment with this rule.

Thomas C. Bickham, III  
Undersecretary  
0812#038

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of Management and Finance  
Uniform Construction Code Council**

Wind Mitigation Surveyor  
(LAC 55:VI. 703 and 705)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730:22(C) & (D) and R.S. 40:1730.34(B) relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Code Council hereby proposes to amend Chapter 7 to create a new category of third party provider, the wind mitigation surveyor.

**Title 55  
Public Safety**

**Part VI. Uniform Construction Code**

**Chapter 5. Enforcement of the Louisiana State Uniform Construction Code**

**§703. Classifications and Required Certifications for Municipal or Parish Building Code Enforcement Officers**

- A. A.1 ...
- B. Definitions

\* \* \*

*Wind Mitigation Surveyor*-- The wind mitigation surveyor classification of third party provider is limited to performing a survey to complete the Louisiana Hurricane Loss Mitigation Survey Form. The Survey Form, LAC 37 Part XIII, Section 12721. Appendix A, is to be utilized by consumers applying for justifying discounts for features that comply with building codes, or, for installed mitigation improvements utilizing construction techniques demonstrated to reduce the amount of hurricane loss from a windstorm. This classification does not qualify applicant to perform building code inspections in compliance with the Louisiana State Uniform Construction Code Council (LSUCCC) or International Code Council (ICC) classifications for building inspectors.

- C. - C.2.c.v.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.34(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:292 (February 2007), amended LR 33:1683 (August 2007), LR 34:93 (January 2008), LR 35:

**§705. Third Party Providers**

- A. - A.1. ...

B. Insurance. All third party providers shall carry at least \$500,000 in professional liability insurance. Proof of valid and current insurance coverage must be provided to the council upon registration and renewal of registration.

1. Exceptions

a. Wind mitigation surveyors shall carry at least \$300,000 in professional liability insurance.

C. - D.3. ...

E. A wind mitigation surveyor classification of third party provider may specialize as a wind mitigation surveyor upon meeting the following qualifications:

1. Possession of a Home Inspector License through the Louisiana State Board of Home Inspectors, and

2. Possession of a Certificate of Completion for the 2006 IRC Hurricane Resistant Residential Construction Program, or other equivalent program approved by the LSUCCC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.34(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:292 (February 2007), amended LR 33:2462 (November 2007), LR 35:

**Family Impact Statement**

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments or requests for public hearing on this proposed Rule to Paul Schexnayder, Attorney, Louisiana State Uniform Construction Code Council, at 7979 Independence Boulevard, Suite 307, Baton Rouge, Louisiana 70806. Comments will be accepted through close of business January 10, 2009.

Jill P. Boudreaux  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Wind Mitigation Surveyor**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not anticipated to result in additional state or local government costs or savings. These rule changes merely create a new category of third party providers, the wind mitigation surveyor.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue as a result of these rules

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no costs to any person or group as result of these rules. However, there could be a marginal benefit to Louisiana's insured homeowners as a result of the proposed administrative rule changes as these rules merely add the wind mitigation surveyor to the list of qualified third party providers who will be qualified to certify the new construction and entitle the homeowner to a potential insurance premium discount.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change should not significantly affect competition or employment.

Jill P. Boudreaux  
Undersecretary  
0812#085

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of State Police  
Transportation and Environmental Safety Section**

Explosive Code  
(LAC 55:I.1505 and 1543)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq, and R.S. 40:1472.1 et seq., gives notice of its intent to amend its rules regulating explosives to create an exception with regard to the requirement of a photographic identification card, and to now require drug screening within 72 hours of applying for, or renewal of, an explosives license.

Interested persons may submit written comments to: Paul Schexnayder, Post Office Box 66351, Baton Rouge, La. 70896-6351. Written comments will be accepted through January 15, 2009.

**Title 55  
PUBLIC SAFETY  
Part I. State Police**

**Chapter 15. Explosives Code  
Subchapter A. General  
§ 1505. General Administrative Requirements  
A. - K. . . .**

1. The photo license shall not be required to be in the possession of the licensee only when the presence of the license would create a danger of physical injury to the licensee or others and only while the licensee is actually working with explosives on his employer's facility. However, when this exception is invoked, the license shall be on file or otherwise available at the site of the employer's facility and, upon request, shall be produced for inspection within a reasonable amount of time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 34:2674 (December 2008), LR 35:

### § 1543. Drug Testing Requirements

A - C . . .

D. All holders of Louisiana Explosives Licenses shall be drug-screened within 72 hours of initial application for, or renewal of, an explosives license. The drug testing required by this paragraph shall meet the same testing standards as tests required by paragraph A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:106 (January 1998), LR 35:

#### Family Impact Statement

1. The effect of this Rule on the stability of the family. This Rule should not have any affect on the stability of the family.

2. The effect of this Rule on the authority and rights of parents regarding the education and supervision of their children. This Rule should not have any affect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of This Rule on the functioning of the family. This Rule should not have any affect on the functioning of the family.

4. The effect of this Rule on family earnings and family budget. This Rule should not have any affect on family earnings and family budget.

5. The effect of this Rule on the behavior and personal responsibility of children. This Rule should not have any affect on the behavior and personal responsibility of children.

6. The effect of this Rule on the ability of the family or local government to perform the function as contained in the proposed rule. This Rule should not have any affect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to Paul Schexnayder, Post Office Box 66351, Baton Rouge, LA.

70896-6351. Written comments will be accepted through January 15, 2009.

Jill P. Boudreaux  
Undersecretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Explosives Code

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed administrative rule changes, which include the requirement of drug screening within 72 hours of applying for, or renewal of, an explosives license and, secondly, an exception to the requirement of having a photographic license in the licensee's possession, should cause no implementation costs or savings to Louisiana State Police or other state or local governmental entities.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no impact on state or local governmental revenues as a result of these proposed rule changes.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed administrative rule changes will likely minimally increase the overall costs to the explosives industry as a result of this measure. These proposed administrative rule changes require a drug screening within 72 hours of applying for, or renewal of, an explosives license. Current practice is to require drug screening during the application process. The proposed rules seek to require the drug screening during the renewal process as well. The costs of the additional drug screening will be paid by the explosives industry.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes should not affect competition or employment

Jill P. Boudreaux  
Undersecretary  
0812#084

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

#### NOTICE OF INTENT

#### Department of Revenue Policy Services Division

#### Individual Income Tax Filing Extensions (LAC 61:III.2501)

Under the authority of R.S. 47:1511, 47:1514, 47:103(D), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:III.2501 to notify all taxpayers requesting an extension of time to file an individual income tax return of the requirement to obtain a state extension.

The secretary of revenue is authorized, but not required, to accept an extension of time to file a federal income tax return as an extension of time to file a Louisiana income tax return. It has been the practice of the department in past years to use this authorization to accept federal extensions,

with copies of the federal extensions submitted with the Louisiana return. The evolution of technology has allowed the IRS to grant federal extensions electronically, with no paper extension issued to the taxpayer. The increased use of "paperless" federal extensions has made it impossible for taxpayers to attach a copy of the federal extension to their state returns. At the same time, increased use of technology by the Louisiana Department of Revenue has made obtaining a state extension via the internet possible. Beginning with the 2008 income tax return, due in 2009 individual taxpayers who need additional time to file their Louisiana individual income tax returns will need to request a state filing extension. Obtaining a federal extension will not extend the time to file a state individual income tax return.

### **Title 61**

## **REVENUE AND TAXATION**

### **Part III. Administrative Provisions and Miscellaneous**

#### **Chapter 25. Returns**

##### **§2501. Individual Income Tax Filing Extensions**

A. The secretary may grant a reasonable extension of time to file a state individual income tax return.

1. To obtain a filing extension, the taxpayer must submit a request for a state individual income tax filing extension to the Department of Revenue on or before the tax return's due date. A federal extension will not extend the time to file a state individual income tax return.

2. Filing extensions may be requested by submitting an Application for Extension of Time to File Louisiana Individual Income Tax or by requesting the extension electronically via the Department of Revenue's web site.

B. Filing Extension Does Not Extend Time to Pay Tax

1. A filing extension granted by the secretary only allows for an extension of time to file the tax return. The filing extension does not allow an extension of time to pay the tax due.

2. To avoid interest and penalty assessments, estimated taxes due should be paid on or before the original due date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, R.S. 47:1514, and R.S. 47:103(D).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 35:

#### **Family Impact Statement**

The proposed adoption of LAC 61:III.2501, requiring taxpayers to obtain a specific state filing extension should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability, and autonomy. The implementation of this proposed Rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budgets;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Leonore Heavey, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments

must be submitted by 4:30 p.m., Tuesday, January 27, 2009. A public hearing will be held on Wednesday, January 28, 2009, at 9:30 a.m. in the River Room Conference Room on the Seventh Floor of the LaSalle Building at 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Individual Income Tax Filing Extensions**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This proposed rule requires taxpayers requesting an extension to file an individual income tax return to obtain a state extension. This will allow the reallocation of some resources and staff used in the billing of late filing penalties to other tax processing activities.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This proposed rule, which requires taxpayers requesting an extension to file an individual income tax return to obtain a state extension, will have no impact on the revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Taxpayers who obtain a federal filing extension are no longer provided confirmation of an approved federal filing extension. Therefore, because an approved filing extension does not accompany their state return, taxpayers are assessed a delinquent filing penalty based on the amount of the tax due. Requiring these taxpayers to obtain a state extension of time to file their return will alleviate the expense of rebutting the assessments.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This proposed rule should not affect competition or employment.

Cynthia Bridges  
Secretary  
0812#088

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Department of Revenue Policy Services Division**

Property Used in Interstate Commerce  
(LAC 61:I.4420)

Under the authority of R.S. 47:305.50, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4420 to provide guidance to taxpayers concerning the sales and use tax exemptions provided by Act 209 of the 2007 Regular Session of the Louisiana Legislature.

Act 209 retains the existing exemption from sales tax for trucks with a gross weight of 26,000 pounds or more and associated trailers if the trucks are used at least 80 percent of the time in interstate commerce. Act 209 amends R.S.

47:305.50 to provide that the determination of whether a truck is used at least 80 percent in interstate commerce shall be based solely on the actual mileage of such truck; however, no truck shall have more than 20 percent Louisiana intrastate miles.

Act 209 amends R.S. 47:305.50 to provide that the sales and use taxes imposed by the state or any of its political subdivisions shall not apply to the purchase, use, or lease of a qualifying truck or purchase, use or lease of a qualifying trailer purchased, imported, or leased, with or without qualifying truck, for use with a qualifying truck.

Act 209 also provides that during a gubernatorially declared state of emergency and if a taxpayer's emergency or relief related efforts undermine the taxpayer's ability to comply with the provisions of R.S. 47:305.50, then the secretary shall waive requirements contained in R.S. 47:305.50.

This proposed Rule sets forth the requirements relative to the exemption from state and local sales and use taxes for trucks and trailers and provides for administration of audits and documents a taxpayer must retain to document eligibility for the tax exemption and for waiver of the eligibility requirements contained in R.S. 47:305.50 during a gubernatorially declared state of emergency.

#### **Title 61**

### **REVENUE AND TAXATION**

#### **Part I. Taxes Collected and Administered by the Secretary of Revenue**

#### **Chapter 44. Sales and Use Tax Exemptions**

#### **§4420. Property Used in Interstate Commerce**

A. R.S. 47:305.50(A)(1) provides an exemption from state and local sales and use taxes for trucks with a gross weight of 26,000 pounds or more and for trailers, if such trucks and trailers are used at least 80 percent of the time in interstate commerce and are subject to the jurisdiction of the United States Department of Transportation. R.S. 47:305.50 allows certain taxpayers to register such trucks and trailers and contract carrier buses with the Office of Motor Vehicles of the Department of Public Safety and Corrections (OMV) without paying state or local sales or use tax. R.S. 47:305.50 provides an exemption from state and local sales and use taxes for the purchase, use or lease of qualifying trucks and qualifying trailers, both of which have been purchased, used, imported or leased. To qualify for the exemption, the taxpayer's activities must be subject to the jurisdiction of the United States Department of Transportation, and the taxpayer must certify to the OMV that the property will be used at least 80 percent of its actual mileage in interstate commerce. The Department of Revenue and the OMV provide forms on which to make these certifications.

B. Any taxpayer who claims the exemption in provided in R.S. 47:305.50(A)(1) must maintain records of the use of the property in order to document the actual mileage. This exemption is for trucks with a gross weight of 26,000 pounds or more and for trailers, if such trucks and trailers are used 80 percent of the time in interstate commerce and are subject to the jurisdiction of the U.S. Department of Transportation. The determination of whether a truck is used 80 percent of the time in interstate commerce must be based upon the actual mileage of such truck. It is required that a truck cannot have more than 20 percent Louisiana intrastate miles.

1. If the documentation indicates that the property was not used during the one-year period following the date of its purchase for the required 80 percent or more of its actual mileage in interstate commerce, the taxpayer will not qualify for the exemption and state and local sales or use tax will be due on the amount paid for the property at the rate that was applicable on the date the property was purchased, plus interest from the date the property was purchased to the date of the tax payment. The state sales or use tax must be reported on a sales tax return provided by the Department of Revenue and paid to the Department of Revenue by the twentieth day of the month following the end of the one-year period in which the taxpayer fails to qualify for the exemption. The local sales or use tax must be reported and paid to the proper local taxing authority in accordance with their ordinances and the Uniform Local Sales Tax Code.

a. Calculation of interstate mileage does not include commercial truck transportation that begins at a point of origin in a state other than Louisiana to a destination in the same state. Guidance for the sales and use tax exemption eligibility of trucks used in other states has been set forth in Department of Revenue, Revenue Ruling 05-004.

b. Interstate mileage is based on the actual mileage of the truck and must be proven through documentation such as with driver's logs, motor carrier bills of lading, expense bills, and other documentation reflecting the origin and destination points of items transported.

2. If, during any of the following one-year periods, the documentation indicates that the property was not used for the required 80 percent or more of its actual mileage in interstate commerce, the taxpayer will no longer qualify for the exemption. If this occurs, state and local sales or use tax will be due on the lesser of the purchase price or fair market value of the property on the first day of the one-year period that it does not meet the 80 percent test. The tax will be calculated based on the rate in effect on the first day of the one-year period in which the taxpayer no longer qualifies for the exemption, plus interest from the date the tax is due to the date of tax payment. The state sales or use tax must be reported on a sales tax return provided by the Department of Revenue and paid to the Department of Revenue by the twentieth day of the month following the end of the one-year period in which the taxpayer no longer qualifies for the exemption. The local sales or use tax must be reported and paid to the proper local taxing authority in accordance with their ordinances and the Uniform Local Sales Tax Code.

C. If the taxpayer fails to provide proper documentation, it will be presumed that the taxpayer does not qualify for the exemption and state and local sales or use tax will be due in accordance with Subsection B above.

D. R.S. 47:305.50(A)(2) provides an exemption from state and local sales and use taxes on the purchase, use or lease of a qualifying truck. The exemption also applies to the purchase, use or lease of a qualifying trailer, which has been purchased, imported or leased, with or without a qualifying truck, for use with a qualifying truck. The definition of qualifying truck and qualifying trailer are set forth as follows.

1. A Qualifying Truck meets the following requirements:

a. registered as a Class I vehicle, which is one carrying or transporting freight, merchandise or other

property, and shall have a registered gross weight of at least 80,000 pounds in accordance with R.S. 47:462. Gross weight is the weight of a vehicle or vehicle combination without the load on all axles, including the steering axle plus the weight of any load thereon as provided by R.S. 47:451;

b. subject to the jurisdiction of the U.S. Department of Transportation;

c. will be or is registered with apportioned plates through the International Registration Plan, or will be issued or is issued a special permit according to provisions of R.S. 32:387(J) from the Department of Transportation and Development. In cases of issuance of a special permit under R.S. 32:387(J), the qualifying truck shall engage in no less than 200 intermodal container moves per year, regardless of whether or not the moves require a special permit. In the year of acquisition, sale, disposal or destruction of the qualifying truck, the number of intermodal container moves per year shall be prorated for the portion of the year the truck was owned, operated, or owned and operated by the taxpayer. R.S. 32:382(J) governs vehicles hauling prepackaged products in international trade originating from or destined to an intermodal facility, which such products are containerized in a manner that they cannot be subdivided.

2. A Qualifying Trailer is one subject to the jurisdiction of the U.S. Department of Transportation.

E. To obtain prior approval to audit or investigate, an auditor shall submit a written justification, which may be submitted via email, to the secretary. This approval is required to:

1. audit or investigate for the purpose of determining the correct amount of the tax exemption;

2. an audit or investigation of a place of business and the books, records, papers, vouchers, accounts and documents of any taxpayer;

3. approval from the secretary is not necessary for political subdivisions to audit, examine, or investigate to determine the correct amount of tax exemption.

F. During a state of emergency declared by the governor, if the declared emergency or related relief efforts undermines the ability of a taxpayer, who is eligible for the exemption and the provisions under R.S. 47:305.50, to comply with this statute, then secretary shall waive the requirements. However, a waiver of the requirements should not affect the secretary's ability to begin or conduct an audit or investigation.

G. The terms "trucks" and "trailers" shall have the meaning ascribed to the terms truck, trailer, road tractor, semi trailer, tandem truck, tractor and truck-tractor as defined in R.S. 47:451.

H. The weights referred to in R.S. 47:305.50 are "gross vehicle weight ratings" (GVWR), as determined by vehicle manufacturers. Manufacturers' determinations of GVWR are usually indicated on plates or decals affixed to vehicles at the time of their manufacture.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:188 (February 2003), amended LR 31:97 (January 2005), LR 35:

### Family Impact Statement

This proposed Rule, LAC 61:I:4420, which provides guidance relative to the exemption from state and local sales and use taxes for certain trucks and trailers, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. The implementation of this proposed Rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budgets;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Emily Toler, Attorney, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., January 26, 2009. A public hearing will be held on January 27, 2009 at 1:30 p.m. in the River Conference Room on the Seventh Floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Property Used in Interstate Commerce

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed rule provides guidance as to a taxpayer's eligibility to qualify for the state and local sales and use taxes exemption contained in R.S. 47:305.50 for certain trucks and trailers. This proposed rule also provides for administration of audits and documents, which a taxpayer must retain to document eligibility for the exemption. It also provides for a waiver of the eligibility requirements during a gubernatorially declared state of emergency. There is no anticipated direct material effect on governmental expenditures as a result of this measure.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are estimated revenue losses for state government collections. According to the Legislative Fiscal Note for Act 209 of the 2007 Regular Session of the Legislature, the estimated fiscal impact of the anticipated losses will be as follows: Fiscal Year 2008-2009 \$415,000; Fiscal Year 2009-2010 \$415,000, Fiscal Year 2010-2011 \$415,000, Fiscal Year 2011-2012 \$415,000, and Fiscal Year 2012-13 \$415,000. The five year total of revenue losses for State will be \$2,075,000. There are estimated revenue losses for local government collections. The fiscal impact of the anticipated losses will be as follows: Fiscal Year 2008-2009 \$482,000, Fiscal Year 2009-2010 \$482,000, Fiscal Year 2010-2011 \$482,000, Fiscal Year 2011-2012 \$482,000 and Fiscal Year-13 \$482,000. The five year total of revenue losses for local governments will be

\$2,410,000. The annual total loss for state and local governments is estimated to be \$897,000. Over the five year period, the estimated total of revenue losses for state and local governments will amount to \$4,485,000.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

R.S. 47:305.50 was amended to extend the sales tax exemption to a small number of trucks. As per the Legislative Fiscal Note for Act 209 for the 2007 Regular Session of the Legislature, 545 trucks, which weighed 80,000 pounds or more and registered with apportioned plates, paid the sales taxes due to the Office of Motor Vehicles during the period of February 1, 2006 through January 31, 2007. There are no estimates in place to determine the impact on receipts and/or income, except that owners and operators of certain trucks and/or trailers will receive a positive economic benefit, if they qualify for and take advantage of the sales tax exemption upon registration of qualifying trucks and/or trailers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no effect on competition or employment.

Cynthia Bridges  
Secretary  
0812#087

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Revenue  
Tax Commission**

**Ad Valorem Taxation**

(LAC 61:V.101, 303, 703, 705, 901, 907, 1103, 1301, 1305, 1307, 1503, 2101, 2501, 2503, 3101, and 3501)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission intends to adopt, amend and/or repeal sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 2009 (2010 Orleans Parish) tax year.

The full text of these proposed Rules may be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

**Family Impact Statement**

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the Louisiana Tax Commission hereby submits the following Family Impact Statement.

1. The Effect on the Stability of the Family. Implementation of these proposed Rules will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parent Regarding the Education and Supervision of Their Children. Implementation of these proposed Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of these proposed Rules will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of these proposed Rules will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of these proposed Rules will have no effect on the behavior and responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in these Proposed Rules. Implementation of these proposed Rules will have no effect on the ability of the family or local government to perform this function.

Interested persons may submit written comments on the proposed Rules until 4 p.m., January 9, 2009, at the following address: Vanessa LaFleur, General Counsel, Louisiana Tax Commission, P. O. Box 66788, Baton Rouge, LA 70896.

James D. "Pete" Peters  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Ad Valorem Taxation**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated state costs or savings associated with the proposed rules. The LTC Rules and Regulations Manual is available on the agency's website at no charge. The impact on local governmental workload and paperwork cannot be quantified, but is expected to be minimal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Local Governmental Units

These revisions will generally decrease certain 2009 real and personal property assessments for property of similar age and condition in comparison with equivalent assessments in 2008. Composite multiplier tables for assessment of most personal property will decrease by an estimated 1%. Specific valuation tables for assessment of pipelines will generally increase by an estimated 5% and drilling rigs will generally increase by an estimated 17.5%. The net effect of these revisions is estimated to decrease assessments by 0.3% and tax collections by \$1,593,600 on the basis of the existing statewide average millage. However, these revisions will not necessarily affect revenue collections of local government units as any net increase or decrease in assessed valuations are authorized to be offset by millage adjustment provisions of Article VII, Section 23 of the state Constitution.

State Governmental Units

Under authority granted by R.S. 47:1838, the Tax Commission will receive state revenue collections generated by assessment service fees estimated to be \$371,169 from public service companies and \$124,513 from financial institutions and insurance companies all of which are assessed by the Tax Commission.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The affects of these new rules on assessments of individual items of equivalent real and personal property will generally be higher in 2009 than in 2008. Specific assessments will depend on the age and condition of the property subject to assessment.

The estimated costs that will be paid by affected persons as a result of the assessment and user service fees as itemized above total \$496,000 to be paid by public service property owners, financial institutions and insurance companies for 2008/2009.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

The impact on competition and employment cannot be quantified. In as much as the proposed changes in assessments are relatively small and there will no longer be any charges for our updates, the impact is thought to be minimal.

James D. "Pete" Peters  
Chairman  
0812#048

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

Alligator Regulations (LAC 76:V.701)

The Wildlife and Fisheries Commission does hereby give Notice of Intent to amend the regulations governing the definition of an alligator hunter helper and release length for farm raised alligators within the Alligator Regulations (LAC 76:V.701).

**Title 76**

**WILDLIFE AND FISHERIES**

**Part V. Wild Quadrupeds and Wild Birds**

**Chapter 7. Alligators**

**§701. Alligator Regulations**

A. The Department of Wildlife and Fisheries does hereby establish regulations governing the harvest of wild populations of alligators and alligator eggs, raising and propagation of farmed alligators, tanning of skins and regulations governing the selling of hides, alligator parts and farm raised alligators. The administrative responsibility for these alligator programs shall rest with the department secretary; the assistant secretary, Office of Wildlife; and the Coastal and Nongame Resources Division.

1. Purpose. These regulations are to govern the taking, possession, selling, raising and propagation of alligators statewide, both in the wild and in captivity. They are enacted to prevent depletion or waste, while enhancing utilization of this renewable resource. These regulations are based upon scientific study and population monitoring and are consistent with federal requirements to qualify alligators and alligator parts from Louisiana for international export under the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Alligators in Louisiana are not endangered but their similarity of appearance to endangered crocodilian species requires controls on commerce to minimize illegal trafficking of these species and to regulate and maintain the wild population of alligators. These regulations provide rules to enhance alligator farming operations; establish the methods of alligator harvest; establish minimum facility requirements for alligator farming; regulate commerce in alligators, eggs and parts; streamline necessary reporting requirements; and, establish a regulated nuisance alligator control program.

2. Definitions. The following words and phrases for purposes of these regulations shall have the meaning ascribed to them in this section, unless the context wherein the particular word or phrase is used clearly indicates a different meaning:

*Alligator*—American alligator (Alligator mississippiensis).

*Alligator Egg Collection Permit*—a permit issued by the department allowing for the collection of alligator eggs on designated properties described as part of the permit. The permit will be signed by the secretary or his designee, the permittee and the landowner/land manager.

*Alligator Farm (Nongame Quadruped)*—an enclosed area, constructed so as to prevent the ingress and egress of alligators from surrounding public or private lands or waters and meeting other specifications and requirements set by the department, where alligators are bred, propagated, or raised as a commercial enterprise under controlled conditions. "Alligator Farm" also includes alligator ranching wherein eggs are collected from the wild, and raised, pursuant to departmental license or permit.

*Alligator Farmer*—a properly licensed person who raises alligators under controlled conditions which prohibit free movement of the animals onto and off of the farm or controlled area, or who collects and sells wild alligator eggs, and who may harvest alligators under the supervision of the department. An alligator farmer must possess a valid nongame quadruped breeder's license.

*Alligator Hide Tag*—an official CITES serially numbered tag issued by the department.

*Alligator Hunter*—a properly licensed resident or nonresident person who takes wild alligators. Resident hunters are divided into four classes.

i. Commercial—anyone who is licensed by the department to take wild alligators after having filed application(s) approved by the department which authorize the issuance of alligator hide tags to him.

ii. Helper—anyone who is licensed by the department to act as an authorized agent of a commercial alligator hunter(s) in conducting alligator harvest activities. The helper may hunt independently of the commercial alligator hunter(s) he is assigned to assist. The helper's license must bear the name and license number of the commercial alligator hunter(s) authorizing the licensing of the helper.

iii. Sport—anyone who is licensed by the department and guided by a commercial hunter during alligator harvest activities; alligator hide tags cannot be issued to a sport license holder.

iv. Nuisance—a licensed alligator hunter who is contracted or otherwise selected by the department to remove designated nuisance alligators and who can be assigned alligator hide tags by the department.

*Alligator Part*—any part of the carcass of an alligator, except the hide and includes the bony dorsum plates, if detached from the tagged alligator hide.

*Alligator Parts Dealer*—any properly licensed person who deals in alligator parts other than hides and who:

i. buys unprocessed alligator parts from an alligator hunter, another parts dealer, or an alligator farmer for the purpose of resale; or

ii. manufactures within the state nonedible alligator parts into a finished product; or

iii. purchases unprocessed alligator meat or processes alligator meat for wholesale or retail sale.

*Alligator Parts Retailer*—any properly licensed person who purchases for retail sale finished alligator parts made from parts other than hides.

*Alligator Shipping Label*—a serially numbered green label issued by the department required on each shipment of alligators being transported out of the state.

*Bona Fide Resident*—

i. any person who has resided in the state of Louisiana continuously during the 12 months immediately prior to the date on which he applies for any license and who has manifested his intent to remain in this state by establishing Louisiana as his legal domicile, as demonstrated with all of the following, as applicable:

(a). if registered to vote, he is registered to vote in Louisiana;

(b). if licensed to drive a motor vehicle, he is in possession of a Louisiana driver's license;

(c). if owning a motor vehicle located within Louisiana, he is in possession of a Louisiana registration for that vehicle;

(d). if earning an income, he has filed a Louisiana state income tax return and has complied with state income tax laws and regulations.

ii. as to a corporation or other legal entity, a resident shall be any which is incorporated or otherwise organized under and subject to the laws of Louisiana, and as to which the principal place of business and more than 50 percent of the officers, partners, or employees are domiciled in Louisiana.

*Closed Season*—that period of time of a calendar year not specifically included in the open season.

*Commission*—the Louisiana Wildlife and Fisheries Commission.

*Common Carrier*—any agency or person transporting passengers or property of any description for hire.

*Confiscation*—the exercise of a right under the police power wherein property is seized and held pending court order if the seized material is nonperishable, or disposed of without judicial intervention if perishable.

*Consumer*—restaurants and other places where alligator, fish, shrimp, or other aquatic life is prepared for human consumption; or any person using alligator, fish, shrimp, or other aquatic life for bait or personal consumption.

*Department*—the Louisiana Department of Wildlife and Fisheries.

*Designated Collection Agent*—anyone who is permitted by the department to assist an alligator egg collection permittee during alligator egg collection.

*Dressing, Dressed Skins or Dressed Furs*—(see "Tanning").

*Finished Alligator Part*—any nonedible alligator part that has been completely processed from parts other than hides for retail sale.

*Fur Buyer*—anyone who buys whole nongame quadrupeds for the purpose of pelting, carcasses of fur bearing animals, raw furs or skins from fur trappers, alligator hunters, alligator farmers, fur buyers, or fur dealers and who sells to another fur buyer or fur dealer within the confines of the state or to a nonresident fur dealer licensed by the state of Louisiana in interstate commerce, or who acts as an agent of another fur buyer or fur dealer in this state in such purchase or sale. Fur buyers are divided into two classes, resident and nonresident. Resident fur buyers are those who

are bona fide residents of this state. All others are nonresident fur buyers.

*Fur Dealer*—anyone who deals in whole nongame quadrupeds for the purpose of pelting, carcasses of fur bearing animals, raw furs and skins and who:

i. buys from a fur trapper, alligator hunter, or alligator farmer, either directly or indirectly, and ships or exports from this state, either directly or indirectly, the raw furs and skins so bought; or

ii. buys from a fur buyer or other fur dealer and exports from this state the raw furs and skins so bought; or

iii. buys from a fur trapper, alligator hunter, alligator farmer, fur buyer, or other dealer and sells such raw furs and skins for manufacturing into a finished product in this state; or

iv. manufactures such furs and skins into a finished product in this state, buying directly from a fur trapper, alligator hunter, alligator farmer, fur buyer, or fur dealer; or

v. transports raw furs or skins into this state for the purpose of sale within the state. Fur dealers are divided into two classes, resident and nonresident. Resident fur dealers are those who are bona fide residents of this state. All others are nonresident fur dealers;

vi. converts raw alligator skins through the tanning process into finished or partially finished leather and/or converts raw (green or dried) fur pelts into dressed furs ready for manufacturing.

*Hatchling*—a young of the year alligator which is less than 23 inches in length.

*Hide*—see *Pelt*.

*Hook*—any curved or bent device attached to a line or pole for the purpose of taking alligators.

*Hunt*—in different tenses, attempting to take.

*Incubator*—an apparatus designed and used for the primary purpose of incubating alligator eggs.

*Land Manager*—any authorized person who represents the landowner.

*Landowner*—any person who owns land which the department has designated as alligator habitat.

*Licensee*—any resident or nonresident lawful holder of an effective license duly issued under the authority of the department.

*Nongame Quadruped*—alligators, beavers, bobcats, coyotes, gray foxes, minks, muskrats, nutrias, opossums, otters, raccoons, red foxes, skunks, and other wild quadrupeds valuable for their furs or skins.

*Nongame Quadruped Breeder*—a person properly licensed to engage in the business of raising, exhibiting and selling nongame quadrupeds on alligator or fur farms.

*Nongame Quadruped Exhibitor*—a person properly licensed to engage in the business of raising and/or exhibiting nongame quadrupeds.

*Nonresident*—any person who is not a bona fide resident as that term is defined by R.S. 56:8(12).

*Nuisance Alligator*—a specific (particular) alligator that poses a threat to human life or property.

*Open Season*—that period of time set by the Louisiana Wildlife and Fisheries Commission, during which wild alligators or their eggs may be lawfully taken.

*Out-of-State Shipping Seal*—a special locking device or seal supplied by the department and placed on or across a

shipping container by department personnel prior to shipping out of state.

*Out-of-State Shipping Tag*—an official, serially numbered tag, yellow in color, issued by the department required on each shipment of alligator hides shipped out of state.

*Part*—for purposes of this Section, a part is a division of a Subsection.

*Pelt*—the skin or hide of a quadruped.

*Pelting*—removing the skin and/or fur of a quadruped in such a manner as to render it marketable.

*Person*—includes any individual person, association, corporation, partnership, or other legal entity recognized by law.

*Pole Hunting*—the act of taking an alligator from a den with a hook pole or snagging device of any type and includes using such devices to induce an alligator to move from a den prior to taking.

*Possess*—in its different tenses, the act of having in possession or control, keeping, detaining, restraining, or holding as owner, or as agent, bailee, or custodian for another.

*Processed Alligator Part*—any part (and its resulting products) that has been removed from a legally taken alligator and for commercial purposes converted into a finished alligator part, or meat prepared and packaged for retail sale.

*Propagation*—the holding of live alligators for production of offspring.

*Raising*—the production of alligators under controlled environmental conditions or in outside facilities.

*Rearing*—see *Raising*.

*Resident*—see *Bona Fide Resident*.

*Secretary*—the Secretary of the Louisiana Department of Wildlife and Fisheries.

*Skin*—see *Pelt*.

*Take*—in its different tenses, the attempt or act of hooking, pursuing, netting, capturing, snaring, trapping, shooting, hunting, wounding, or killing by any means or device.

*Tanning*—the conversion of alligator skins or fur pelts into an intermediate or finished form and includes the following: crust tanning alligator leather, dyeing alligator leather, glazing alligator leather, tanning fur pelts, shearing fur pelts, and dyeing fur pelts, and includes the dressing of skins and furs.

*Transport*—in its different tenses, the act of shipping, attempting to ship, receiving or delivering for shipment, transporting, conveying, carrying, or exporting by air, land, or water, or by any means whatsoever.

*Wildlife*—all species of wild vertebrates.

*Wildlife Management Area*—any area set aside, maintained, and supervised by the department for the purpose of managing and harvesting wild birds, wild quadrupeds, fish and other aquatic life under controlled conditions to afford maximum public hunting and fishing opportunity.

*Wildlife Refuge*—any area set aside and designated by the department as a refuge on which wild birds and animals are protected. Control of certain forms of wildlife may be conducted by the department.

### 3. General Rules

a. No person shall take, possess, purchase or sell alligators, alligator eggs, alligator hides, alligator parts, or goods manufactured from alligators, except as provided in these regulations and Title 56.

b. Each alligator, alligator hide, alligator egg, or alligator part taken or possessed in violation of these regulations shall constitute a separate offense.

c. Alligators or hides of alligators harvested in Louisiana shall be tagged in accordance with provisions as prescribed in Subsection A.6.e of this Section and deviation from those requirements shall be a violation and subject hides to confiscation. Violation of this Subparagraph is a Class Four violation as described in Title 56.

d. Pole Hunting is prohibited. It is legal for a hunter to retrieve a shot alligator with a hook pole or to retrieve with a hook pole an alligator taken on a hook and line. Violation of this Subparagraph is a Class Two violation as described in Title 56.

e. An alligator hunter must possess on his person one or more current alligator hide tags issued for the property on which he is hunting; and if participating in a joint hunting operation at least one licensed hunter needs to possess current hide tags issued for the property on which they are hunting among a group of licensed hunters who are physically present in the same location. Violation of this Subparagraph is a Class Two violation as described in Title 56.

f. No person shall release any alligator from any taking device for any purpose without first dispatching the alligator. After the alligator is removed from the taking device the hide tag shall be properly attached immediately upon possession. Violation of this Subparagraph is a Class Four violation as described in Title 56.

g. Taking or collection of any wild alligator illegally is strictly prohibited. Violation of this Subparagraph is a Class Four violation for each alligator taken as described in Title 56. All alligators taken in violation of this Subparagraph shall be confiscated and in addition to all other penalties provided herein, all alligator licenses of any type held by the offender(s) shall be revoked for a period of three calendar years. If violation(s) of this Subparagraph involves a farm operation, no alligators shall be raised or propagated on the offender's facilities for a period of three calendar years. Any live alligator(s) confiscated pertinent to any violation of this Subparagraph must be returned to the wild when appropriate. Selection of the release site and time of year of the release shall be accomplished only after consultation with and in agreement with biological staff of Coastal and Nongame Resources Division.

h. The shipment of alligator eggs out of state is prohibited except where special scientific permits have been obtained in advance from the department which specify all such shipments. Violation of this Subparagraph is a Class Four violation as described in Title 56.

i. No person, firm, or corporation shall transport into this state or possess whole alligator(s) with skin on, alligator parts or alligator skins/hides unless that person, firm or corporation is a Louisiana licensed alligator parts dealer or fur dealer and is in immediate possession of an alligator parts dealer's license or fur dealer's license, except

that a copy of such license shall be sufficient during transportation only. Persons, firms or corporations violating this Subparagraph shall be subject to the penalties as provided in Title 56:34, a Class Four violation; except that when such a violation involves alligator parts only, such offenses shall be subject to the penalties as provided in Title 56:32, a Class Two violation.

j. It is unlawful to ship alligator eggs into the state of Louisiana unless they are to be used for department sponsored scientific studies and these shipments shall have prior written department approval. Violation of this Subparagraph is a Class Four violation as described in Title 56.

k. The shipment of live alligators or alligator eggs out of the United States is strictly prohibited unless they are used for department sponsored scientific studies with an accompanying authorization signed by the secretary. The transfer of ownership of live alligators out of their natural range for commercial purposes is strictly prohibited. However, this Subparagraph does not prohibit a licensed Louisiana alligator farm from raising alligators of Louisiana origin in a nonrange state provided the nonrange farm is in complete compliance with all applicable state(s) and federal regulations. Violation of this Subparagraph is a Class Three violation as described in Title 56.

l. There is levied a severance tax of \$0.25 on each alligator hide taken from within the state, payable to the state through the department by the alligator hunter or alligator farmer shipping or taking his own catch out of state, or shipping to an instate taxidermist, or by the dealer shipping skins or hides out of state or tanning alligator skins in Louisiana. Violation of this Subparagraph is a Class Two violation as described in Title 56.

m. An alligator hunter or alligator farmer may give alligator parts to anyone for personal use. Any part of an alligator shall have affixed thereto the name, address, date, hide tag number, and the license number of the person donating the alligator part(s). This information shall be legibly written in pen or pencil on any piece of paper or cardboard or any material which is attached to the part(s) or to the container enclosing the part or parts. This information must remain affixed until the part(s) has been stored at the domicile of the possessor. Violation of this Subparagraph is a Class Two violation as described in Title 56.

n.i. R.S. 56:280, passed in the regular session of the 1992 Louisiana Legislature established a state policy which protects white or albino alligators and except under department permit prohibits the taking of white or albino alligators from the wild.

ii. Conditions under which any alligator that is white or albino may be taken from the wild and under official department permit include:

(a). landowners or licensed alligator farmers or ranching operators may capture live and unharmed a white or albino alligator for its own protection. All such instances of possession shall be reported immediately to the department;

(b). any white or albino alligator hatchling produced from wild collected eggs authorized by a department alligator egg collection permit will remain in the possession of such licensed operators. Any white or albino

hatchling must be reported immediately upon hatching to the department on a standard activity report form;

(c). any person who unintentionally takes from the wild any alligator that is white or albino by hook and line shall immediately report its presence and location to the department. Department personnel of the Coastal and Nongame Resources Division will on a case by case basis determine the disposition of any such white or albino alligator which is unintentionally hooked.

iii. Any white or albino hatchling produced from a licensed breeding pen will remain in the possession of such licensed operators but must be reported immediately upon hatching to the department on a standard activity report.

iv. It shall be a violation if any person intentionally takes from the wild any alligator that is white or albino by any means.

v. Violation of R.S. 56:280 shall subject the violator to a fine of not less than \$10,000 and imprisonment for not less than six months or more than 12 months, or both.

o. Alligator meat and parts may be shipped in containers that are sealed and the parts identified to the CITES tag of origin. A fully executed alligator hunter, farmer, or parts dealer alligator parts sale or transaction form and shipping manifest shall meet the U.S. Fish and Wildlife Service parts identification requirements, provided such form(s) is/are prominently attached to the outside of each shipping container. Alligator meat/parts shipped to another state must meet applicable state/federal requirements of the receiving state. Alligator meat/parts exported from the United States must meet the requirements of the U.S. Fish and Wildlife Service as well as those of the receiving country. Alligator skulls being exported shall carry a "tag" containing the CITES tag number and the hunter's name and license number. The skull must also be physically marked with the number of the original CITES tag used for the hide of the individual alligator. Violation of this Subparagraph is a Class Three violation as described in Title 56.

p. For the purpose of bonafide educational or promotional functions, including but not limited to school activities, civic groups, fairs and festivals within the state of Louisiana, an alligator farmer/rancher or his designee may transport his own live farm alligators or alligator eggs to such function without the need for a special permit from the department while in possession of a valid nongame quadruped breeder's or exhibitor's license or copy thereof. Such farmer/rancher shall not barter, trade, exchange or attempt to barter, trade or exchange live alligator(s) or alligator eggs while transporting to/or attending such function.

#### 4. Licenses, Permits and Fees

a.i. The licenses and fees required for activities authorized by these regulations are as prescribed under provisions of Title 56, or as prescribed in these regulations, and are:

(a). \$25 for a resident alligator hunter's license; including commercial, helper, sport, and nuisance types;

(b). \$150 for a nonresident alligator hunter's license;

(c). \$25 for a resident fur buyer's license;

(d). \$100 for a nonresident fur buyer's license;

(e). \$150 for a resident fur dealer's license (\$500 deposit required);

(f). \$300 for a nonresident fur dealer's license (\$1,000 deposit required);

(g). \$10 for a nongame quadruped exhibitor's license;

(h). \$25 for a nongame quadruped breeder's license;

(i). \$50 for an alligator parts dealer license;

(j). \$5 for an alligator parts retailer license;

(k). \$4 for each alligator hide tag;

(l). \$4 for each whole alligator leaving the state as alligator shipping label fee;

(m). \$0.25 severance tax for each alligator hide taken from within the state;

(o). \$25 for a Designated Agent Collection Permit.

ii. All license types prescribed above except nongame quadruped exhibitor and breeder expire annually on June 30. Nongame quadruped exhibitor and breeder licenses expire annually on December 31.

b. No person may take, attempt to take, or possess a wild alligator in this state during the open season for taking wild alligators unless he or she has acquired and possesses an alligator hunter's license. An alligator hunter must have in possession a valid alligator hunter license to take or sell alligators, their skins, or parts. Violation of this Subparagraph is a Class Three violation as described in Title 56.

c. No person may engage in the business of buying alligators for the purpose of skinning or buying and selling alligator skins unless he has acquired a resident or nonresident fur buyers license. No resident or nonresident fur buyer shall ship furs, alligators, or alligator skins out of state. Violation of this Subparagraph is a Class Three violation as described in Title 56.

d. No person may engage in the business of buying alligators for the purpose of skinning or buying and selling alligator skins or shipping alligator skins out of state or tanning alligator skins within the state unless he has acquired a resident or nonresident fur dealers license. Violation of this Subparagraph is a Class Three violation.

e. No person may engage in the business of raising and/or exhibiting alligators unless he or she has acquired and possesses a valid nongame quadruped exhibitor license. Violation of this Subparagraph is a Class Three violation as described in Title 56.

f. No person may engage in the business of raising, breeding, collecting and selling alligator eggs from the wild, propagating, exhibiting and selling alligators alive or selling their parts, and killing and transporting them and selling their skins and carcasses unless he or she has acquired and possesses a valid nongame quadruped breeder license and complies with Subsections A.14 and 15 of this Section. Violation of this Subparagraph is a Class Three violation as described in Title 56.

g. No person shall engage in the business of buying and selling unprocessed alligator parts unless he has acquired and possesses a valid alligator parts dealer license. Violation of this Subparagraph is a Class Two violation as described in Title 56.

h. Each retailer purchasing for retail sale, finished alligator parts made from parts other than hides, shall secure from the department an alligator parts retailer license prior to

commencing business. Violation of this Subparagraph is a Class Two violation as described in Title 56.

i. No person shall remove and possess alligator eggs from wild nests unless he has acquired and possesses a valid nongame quadruped breeder license or a valid designated agent collection permit and also has in his possession a valid alligator egg collection permit. Egg collection permits will only be issued to those persons who demonstrate competency in egg collection and handling, have necessary equipment accessible and comply with all department requirements as described in Subsection A.14 of this Section. Violation of this subparagraph is a Class Four violation as described in Title 56.

j. No person shall ship or transport alligators out of the state without first applying for and receiving an alligator shipping label which shall be affixed to each shipment of alligators and is properly completed and validated by department personnel. Violation of this Subparagraph is a Class Three violation as described in Title 56.

k. Every alligator hunter or alligator farmer shipping or transporting his own catch of alligator skins out of state is liable for the alligator hide tag fee and the severance tax thereon, and shall apply for an official out of state shipping tag to be attached to the shipment and shall pay the alligator hide tag fee and the severance tax prior to shipment. Violation of this Subparagraph is a Class Two violation as described in Title 56.

l. Valid holders of alligator hunter license, nongame quadruped breeder license, fur dealers license and alligator parts dealer license must comply with the receiving state/country requirements and with federal licensing, tagging and permit requirements to engage in interstate and international commerce involving alligators, alligator hides, alligator parts and fully manufactured alligator hide products. Violation of this Subparagraph is a Class Two violation as described in Title 56.

#### 5. Wild Harvest Methods

a. Alligators taken from the wild may be removed from hook and line, and other legal capture devices which may be used, only during daylight hours, between official sunrise and official sunset. Violation of this Subparagraph is a Class Four violation as described in Title 56.

b. There are no size restrictions on wild alligators taken during the general open season.

c.i. Legal methods for taking alligators in the wild are as follows:

(a). hook and line;

(b). long (including compound) bow and barbed arrow; and

(c). firearms (the possession of shotguns is prohibited while hunting or taking wild alligators; except as authorized by the department for taking of nuisance alligators by nuisance alligator hunters).

ii. Violation of this Subparagraph is a Class Two violation as described in Title 56.

d. Hooks and arrows may be used only when a line of at least 300-pound test is securely attached to the hook or head of the arrow in such a manner to prevent separation from the hook or head until the carcass is retrieved. The other end of the line must be attached to a stationary or floating object capable of maintaining the line above water

when an alligator is attached. Violation of this Subparagraph is a Class Two violation as described in Title 56.

e. Alligator hunters shall inspect their hooks and lines and remove captured alligators daily. Alligators shall not be cut loose from hooks and lines for the purpose of selecting larger alligators. All hooks and lines shall be removed when an alligator hunter's quota is reached. In the event an alligator is hooked and the hunter's quota has been reached the hunter must release the alligator in the most humane method possible. Violation of this Subparagraph is a Class Two violation as described in Title 56.

f. Baited hooks and lines may be set no more than 24 hours prior to the general open season and shall be removed no later than sunset of the last day of the open season. Violation of this Subparagraph is a Class Two violation as described in Title 56.

g. No person possessing alligator hide tags issued for privately-owned land or water may take alligators on adjacent publicly-owned water unless the taking device is anchored to privately-owned land or the person is on privately-owned land when the taking occurs, provided that any alligator captured on a legal taking device that is anchored to privately-owned land or held by a person on privately-owned land may be dispatched from a floating craft on public water. Violation of this Subparagraph is a Class Two violation as described in Title 56.

h. A person possessing alligator hide tags for publicly-owned areas may take alligators by legal means from a floating craft on public water for which the tags are issued.

#### 6. Alligator Hide Tag Procurement and Tagging Requirements

a. Alligator hide tags may be obtained as follows and only to properly licensed alligator hunters and nongame quadruped breeders.

b. Landowners, Land Managers and Hunters—upon application to the department on forms provided for tag issuance. Applications for alligator tag allotments will be taken annually beginning July 15 and ending the day before the season opens. Tags will not be issued after close of business on the day prior to the season opening date.

i. Maximum tag issuance to individual landowners, land managers, or their hunters shall be determined solely by the department. Landowners, land managers, or their hunters shall certify total acreage owned or represented on a form prescribed by the department at the time of application. The location and acreage of the property must be provided which includes parish, township, range and section delineation figures.

ii. Land managers and hunters must present a signed document from the landowner verifying their selection to represent that landowner and the total acreage represented to obtain hide tags.

iii. Alligator hide tags shall be issued to licensed alligator hunters without charge. Numbered alligator hide tags shall only be issued in the name of the license holder and are nontransferable. All unused alligator tags shall be returned within 15 days following the close of the season.

c. Alligator Farmers. Alligator hide tags shall be issued to properly licensed alligator farmers without charge upon request at any time at least two weeks prior to scheduled harvesting, subject to verification of available

stock by department personnel. All unused alligator tags shall be returned to the department within 15 days following the last day of the year that issued tags are valid.

d. If an alligator hunter is cited for hunting alligators out of season, or at night, or on property other than that for which hide tags were issued, all unused hide tags and alligators in possession shall be confiscated and the violator's alligator hunting license shall be revoked. Violation of this Subparagraph is a Class Four violation as described in Title 56.

e. A hide tag shall be properly attached and locked using the tag's locking device in the alligator's tail immediately upon possession by an alligator hunter. Alligator farmers, fur buyers and fur dealers may wait until farm raised alligators are skinned prior to tagging, but under no circumstances can the tag be attached using the locking device more than 48 hours after dispatching the alligator during the open wild alligator harvest season, or more than 7 days after dispatching the alligator outside of the open wild alligator harvest season. Live or dead farm raised alligators may be transported with their accompanying tags from a licensed alligator farm to a licensed processing facility, however each shipment shall be accompanied with the exact number of alligator hide tags. In the event that an alligator tag contains a factory defect rendering it unusable for the purpose intended or becomes detached from an alligator or hide, the tag must be reattached to the tail of the alligator/hide. The department will be responsible for the replacement of reattached tags prior to shipping out-of-state or prior to tanning within the state. It shall be unlawful to tag or attempt to tag an alligator with a tag that has been locked prior to the taking. Locked tags may be replaced upon request at the discretion of the department. The alteration of hide tags is strictly prohibited and will result in the confiscation of all tags and alligators/hides and the revocation of the violator's alligator hunting license. Violation of this Subparagraph is a Class Four violation as described in Title 56.

f. In the event that an alligator hide tag cannot be located when in the possession of a buyer/dealer, then the following procedure shall be followed.

i. Following discovery of an untagged alligator or alligator hide by the buyer/dealer, they shall notify the Department of Wildlife and Fisheries, Coastal and Nongame Resources Division within 24 hours and the department of Wildlife and Fisheries will place a state tagging device on the alligator or alligator hide.

ii. Upon discovery of an untagged alligator or alligator hide by Department of Wildlife and Fisheries personnel, such personnel shall place a state tagging device on the alligator or alligator hide.

iii. The state tagged alligator or alligator hide will remain in the possession of the buyer/dealer following the placement of the state tagging device until such time as the hide tag is located or until December 31 of that year, whichever comes first. Upon presentation of the missing hide tag and the corresponding buyer/dealer record which documents a match between the tag number and the alligator/hide being held, and if the Department of Wildlife and Fisheries then confirms that such tag number has not been previously shipped, the Department of Wildlife and Fisheries shall attach a replacement alligator hide tag.

iv. If the buyer/dealer does not locate the missing hide tag following the placement of the state tagging device by the end of the allotted time period but is able to identify the tag number on a Department of Wildlife and Fisheries issued or approved buyer/dealer record which documents a match between the tag number and the skin being held, and if the Department of Wildlife and Fisheries then confirms that subject tag number has not been previously shipped, the Department of Wildlife and Fisheries may, in its discretion, issue a replacement alligator hide tag.

v. The failure of the buyer/dealer to produce the correct hide tag and/or correct documentation by the end of the allotted time period shall constitute a violation of this Subparagraph.

vi. The previous or subsequent attachment to an alligator or alligator hide of the missing hide tag as described above shall constitute a violation of this Subparagraph.

vii. Violation of this Subparagraph is a Class Four violation as described in Title 56.

#### 7. Open Season, Open Areas, and Quotas

##### a. Open seasons are as follows.

i. The state shall be divided into the East and West Alligator Hunting Zones by the following boundary: Beginning at the southwestern most part of Point Au Fer Island thence North along the western boundary of Terrebonne Parish to the Atchafalaya River, thence north along the Atchafalaya River to the East Atchafalaya Protection Levee, thence north along the East Atchafalaya Protection Levee, to Interstate 10, thence east along Interstate 10 to Interstate 12, thence east along Interstate 12 to Interstate 55, thence north along Interstate 55 to the Mississippi state line. The season for taking alligators in the wild shall open on the last Wednesday of August in the East Zone and the first Wednesday of September in the West Zone and will remain open for 30 days thereafter in each zone. The secretary shall be authorized to close, extend, delay, or reopen the season as biologically justifiable.

ii. Nuisance control hunters may take nuisance alligators at any time as prescribed by the department.

iii. Farm raised alligators may be taken at any time following the issuance of hide tags by the department.

iv. The open season for collection of alligator eggs from the wild shall be from May 15 through September 1 of each calendar year. Violation of this Clause is a Class Four violation as described in Title 56.

##### b. The open areas are as follows.

i. For the general open season, those areas designated by the biological staff of the department as alligator habitat and which can sustain an alligator harvest.

ii. The department may select public lakes and lands for an experimental alligator hunting program. The harvest will be controlled by a tag allotment for each lake as determined by department personnel. Applicants for public lake hunting must be 16 years of age or older. Applications must be received at least 10 days prior to the season opening date. A public drawing will be held to select hunters. An alligator hunter can receive tags for and hunt on only one public lake per season. The tag quota for each lake and hunter will be established by the biological staff of the department. Alligator tags issued on public lakes and lands are nontransferable.

iii. Wild alligators in the remainder of the state may be taken only under provisions as prescribed by the department.

iv. The open alligator egg collection season shall include those areas designated by the biological staff of the department as alligator habitat which can sustain an egg collection harvest and egg quotas will be determined by department biologists.

c. The daily and season quota is equal to the number of valid alligator hide tags that a licensed alligator hunter possesses. Violation of this Subparagraph is a Class Four violation as described in Title 56.

d. Non-resident alligator hunters may only take three alligators during the open season. Violation of this Subparagraph is a Class Three violation as described in Title 56.

e. Harvest rates will be calculated annually by department personnel based on biological data. Alligator hide tag allotments will be established prior to issuance of alligator hunting licenses.

#### 8. Possession

a. No person shall possess alligators or alligator hides in Louisiana without valid official tags properly attached in the tail using the locking device as prescribed in Subsection A.6.e. Violation of this Subparagraph is a Class Four violation as described in Title 56.

b. Alligator farmers may request hide tags or shipping labels from the department to be used on farm-raised alligators that have died and may hold those alligators in freezers until receipt of the requested hide tags or shipping labels. These alligators may be held in freezers for a maximum of 60 days prior to disposal. All farm raised alligators 24 inches and greater in length that die may be skinned and tagged with an alligator hide tag within 48 hours of death during the open wild alligator harvest season, or within 7 days of death outside of the open wild alligator harvest season. Violation of this Subparagraph is a Class Three violation as described in Title 56.

c. No person other than a licensed alligator hunter, licensed alligator farmer, licensed fur buyer or licensed fur dealer may possess a tagged or labeled alligator, a tagged raw or salted hide of an alligator at any time, provided that legally documented tagged or labeled alligators or tagged hides may be possessed without license while in transit, or during processing for tanning or taxidermy. However, properly tagged and documented alligators or hides may be stored at any location at the owner's discretion. Violation of this Subparagraph is a Class Four violation as described in Title 56.

d. No person other than a licensed alligator farmer or licensed nongame quadruped exhibitor shall possess live alligators at any time other than by a permit issued by the department upon request for use in displays and educational purposes, and by holders of valid department issued permits for scientific purposes. Live, farm raised alligators and their accompanying alligator hide tags may be held for processing by a properly licensed alligator skinning facility without a license or permit. Violation of this Subparagraph is a Class Four violation as described in Title 56.

e. No person other than a licensed alligator farmer or licensed nongame quadruped exhibitor shall possess alligator eggs at any time other than department permitted

Designated Collection Agents assisting a licensed and permitted alligator farmer during wild egg collection, or a holder of a valid department issued permit for scientific purposes. Violation of this Subparagraph is a Class Four violation as described in Title 56.

f. Any alligators hatched from scientific permits issued by the department shall be returned to the wild under departmental supervision following completion of the research project. Violation of this Subparagraph is a Class Two violation as described in Title 56.

#### 9. Importation, Exportation, Purchase, and Sale

a. Live alligators may be brought into the state only if the person, firm or corporation bringing the alligators into the state has obtained written permission from the department. Violation of this Subparagraph is a Class Four violation as described in Title 56.

b.i. All alligators, alligator hides (raw or salted), or parts of alligators possessed, sold, purchased, exported, imported, or brought into the state from another state shall be accompanied by documented evidence that they were lawfully taken. Documented evidence shall consist of, but not be limited to:

(a). a resource user license or permit number allowing the taking of alligators and tags or other identification required by the state or country of origin shall be firmly attached to the alligator, alligator hide, or parts of alligators; and

(b). a tag or label is affixed to the outside of any package or container of alligators, alligator hides, or alligator parts that specifies type of contents, indicates quantity contained, and lists applicable license or permit numbers.

ii. Violation of this Subparagraph is a Class Two violation as described in Title 56.

c. Purchases of alligators, alligator hides, alligator eggs, and alligator parts are restricted as follows.

i. A licensed alligator hunter may not purchase alligators or alligator hides from anyone.

ii. A licensed fur buyer may purchase whole alligators or alligator hides from a Louisiana licensed alligator hunter, licensed alligator farmer, licensed fur dealer, or another fur buyer.

iii. A licensed fur dealer may purchase whole alligators or alligator hides from a licensed alligator hunter, licensed alligator farmer, fur buyer or another fur dealer.

iv. A licensed alligator farmer may purchase live alligators only from another licensed alligator farmer (with a department approved alligator transfer authorization permit) or the department.

v. An alligator farmer may purchase alligator eggs only from another alligator farmer, a landowner/land manager (with an approved department alligator egg collection permit), or the department.

vi. A licensed alligator parts dealer may purchase alligator parts from a licensed alligator hunter, alligator farmer, another alligator parts dealer, or the department.

vii. A licensed alligator parts retailer may purchase finished alligator parts for retail sales.

d. Sales of alligators, alligator eggs, and alligator parts are restricted as follows.

i. A licensed alligator hunter may sell alligators, alligator hides, or alligator parts taken by the licensee during

the general open season to anyone who may legally purchase.

ii. A licensed alligator farmer may sell alligators, alligator eggs, alligator hides, or alligator parts to anyone who may legally purchase. The sale of alligator eggs or live alligators shall only occur following the issuance of a Transfer Authorization Permit. Application for the permit shall be made at least 2 weeks prior to the transfer.

iii. A licensed fur buyer may sell whole alligators or alligator hides to a fur dealer or another fur buyer within the confines of the state.

iv. A licensed fur dealer may sell whole alligators or alligator hides to anyone who may legally purchase.

v. A licensed alligator parts dealer may sell alligator parts, other than hides, to anyone.

vi. A licensed alligator parts retailer may sell finished alligator parts to anyone.

e. Legally tagged and documented alligators, alligator hides, and parts of alligators taken in Louisiana may be shipped out of state or exported by alligator hunters, alligator farmers, fur dealers and alligator parts dealers subject to Subsection A.11 of this Section (relating to Report Requirements) provided that no live alligators or eggs originating in Louisiana may be exported outside of their natural range without specific department authorization and the concurrence of the United States Fish and Wildlife Service, to be used only for scientific purposes. Violation of this Subparagraph is a Class Three violation as described in Title 56.

f. A special permit is required of anyone who sells alligator eggs, or live alligators. Violation of this Subparagraph is a Class Four violation as described in Title 56.

#### 10. Nuisance Alligator Control

a. Nuisance alligator hunters will be selected by the department with proper screening by enforcement personnel in the region of appointment. Selection may be based upon recommendations received from the local governing body. Applicants with prior alligator hunting violations will be rejected.

b. Nuisance alligator hunters shall purchase a valid alligator hunter license and are bound by all laws, rules and regulations governing alligator hunting with the exception that nuisance alligators may be taken at anytime.

c. Nuisance alligator complaints will be verified by department personnel prior to being approved for removal.

d. Tags will be issued without charge to nuisance alligator hunters. Nuisance alligator hunters will attempt to catch nuisance alligators and relocate to natural habitat selected by the department. It is unlawful for any nuisance alligator captured alive to be sold or otherwise disposed of on an alligator farm. Alligators and alligator parts taken under these provisions may be retained and sold by the nuisance alligator hunter as any other legally taken wild alligator or alligator part. Violation of this Subparagraph is a Class Four violation as described in Title 56.

e. Nuisance alligator hunters may take alligators by any means prescribed by the department. Failure to comply with departmental instructions may result in immediate termination of the individual's participation in the nuisance alligator program. Violation of this Subparagraph is a Class Two violation as described in Title 56.

## 11. Report Requirements

a. Report forms provided by or approved by the department must be completed and filed with the department by all persons who have been issued an alligator hunter's license, fur buyer's license, fur dealer's license, nongame quadruped exhibitor's license, nongame quadruped breeder's license, alligator parts dealer's license, or alligator egg collection permit in accordance with this Paragraph. Reports shall include but not be limited to the information specified in this Paragraph.

b. Commercial alligator hunters receiving hide tags from the department are responsible for disposition of all issued tags and must:

i. complete an official alligator parts transaction form furnished by or approved by the department for each alligator part transaction. These forms shall be submitted to the department at the end of the calendar year;

ii. complete an official lost tag form, furnished by the department for any hide tags lost or stolen. These forms shall be submitted to the department within 15 days following the close of the season. Lost or stolen tags will not be replaced;

iii. all unused tags must be returned to the department within 15 days following the close of the season;

iv. the department must be notified of any trophy skins not sold to commercial buyers or dealers within 30 days following the close of the season, on official forms provided by or approved by the department;

v. each licensed alligator hunter selling alligator parts to a person or a restaurant shall provide that person with a bill of sale for each transaction;

vi. all records of commercial transactions involving alligator parts by alligator hunters shall be available for inspection by the department;

vii. the alligator hide tag fee and severance tax shall be collected by the department from the alligator hunter who is shipping his own alligators or raw alligator skins, or who intends to custom tan, or use for taxidermy, the alligators or raw skins;

viii. violation of this Subparagraph is a Class Two violation as described in Title 56.

c. A nuisance alligator hunter shall comply with the same report requirements as a commercial alligator hunter and complete any other reports required by the department. Violation of this requirement shall result in immediate termination of nuisance alligator hunter status. Violation of this Subparagraph is a Class Two violation as described in Title 56.

d. Alligator farmers receiving hide tags from the department are responsible for disposition of all issued tags and must:

i. complete an official alligator parts transaction form, furnished by or approved by the department for each alligator parts transaction. These forms shall be submitted to the department along with the annual report. Violation of this Clause is a Class Two violation as described in Title 56;

ii. complete an official lost tag form, furnished by the department, for any hide tags lost or stolen. These forms shall be submitted to the department within 15 days following the last day of the year that issued tags are valid. Lost or stolen tags will not be replaced. Violation of this Clause is a Class Two violation as described in Title 56;

iii. all unused hide tags must be returned to the department within 15 days following the last day of the year that issued tags are valid. Violation of this Clause is a Class Two violation as described in Title 56;

iv. each alligator farmer shall report annually, no later than December 1, on an official form provided by the department, all activities that have occurred on the farm for the past year including but not limited to the number of live alligators as of that date, separated by sizes, the number of eggs collected and hatched, the purchase and sale of alligators, hides, and parts for the past year and the numbers of alligators lost. Failure to complete this form properly and completely will result in nonrenewal of the nongame quadruped breeder's license. Violation of this Clause is a Class Three violation as described in Title 56;

v. each licensed alligator farmer selling alligator parts to a person or a restaurant shall furnish that person with a bill of sale for each transaction. Violation of this Clause is a Class Two violation as described in Title 56;

vi. each alligator farmer collecting alligator eggs, hatching alligator eggs, selling alligators for processing, or selling alligator skins shall submit completed forms as provided by the department within 10 days following completion of the activity. Violation of this Clause is a Class Three violation as described in Title 56;

vii. the alligator shipping label fee or the alligator hide tag fee and the severance tax shall be collected by the department from the alligator farmer who is shipping alligators or raw alligator skins, or who intends to custom tan, or use for taxidermy, the alligators or raw skins.

e.i. Fur buyers, fur dealers, alligator farmers and alligator hunters engaged in the business of buying and/or selling whole alligators or alligator hides must keep within the state a complete record on forms provided by or approved by the department, all purchases and sales of whole alligators or alligator hides as described in Title 56; and

ii. every fur buyer, fur dealer, alligator farmer or alligator hunter having undressed alligator hides in his possession shall file with the department within 60 days of purchase or within 60 days of tagging or prior to shipping out of state or prior to tanning skins in Louisiana, whichever occurs first, a complete report, on forms provided by or approved by the department, a detailed description of alligator hides to be shipped or tanned. At the time of shipment or prior to tanning, department personnel will inspect hides and replace any broken or reattached tags. department personnel will issue the appropriate number of yellow shipping tags, one for each shipment. At that time, department personnel will affix a seal or locking device to each container and if container is reopened by anyone other than department personnel or Federal personnel this action will be considered illegal. In conjunction with the inspection and prior to department issuance of shipping tag(s) and seal(s) or locking device(s), department personnel must collect:

(a). all completed buyer/dealer records for skins in each shipment;

(b). official shipping manifest including total length in inches (or feet and inches) referenced to CITES tag number of each wild skin in shipment and including total belly width in centimeters (measured at the fifth scute)

referenced to CITES tag number of each farm raised alligator skin in shipment. A fully executed (filled out) shipping manifest containing all information required in the buyer/dealer record may be substituted with department approval for the buyer/dealer record requirement on farm raised alligator skins;

(c). stub portion of yellow shipping tag completely filled-out;

(d). severance tax and alligator hide tag fees owed by alligator hunter, alligator farmer or fur dealer;

iii. if any of the above requirements are not satisfied, the shipment will not be authorized. Violation of this Subparagraph is a Class Three violation as described in Title 56.

f. Fur dealers engaged in the business of buying and selling alligator hides must maintain complete records of alligator hides purchased inside and outside the state as described in Title 56. Fur dealers in the business of tanning alligator hides must provide a monthly report, on forms provided by or approved by the department, of all alligator hides being held in inventory. Failure to maintain complete records and to pay the required severance tax and alligator hide tag fees subjects any dealer to the full penalties provided and the immediate revocation of his license by the department. No license shall be issued to a dealer who has not paid the tax and alligator hide tag fees for the preceding year. Violation of this Subparagraph is a Class Three violation as described in Title 56.

g. Alligator parts dealers acquiring alligator parts, shall complete an official alligator parts purchase form at the time of each purchase. Alligator parts dealers selling alligator parts, shall complete an official alligator parts sale form at the time of each sale. These forms shall be furnished by or approved by the department and shall be submitted to the department annually, no later than June 30, and:

i. alligator parts dealers shall furnish a bill of sale to anyone purchasing alligator parts;

ii. the records of transactions involving alligator parts shall be available for inspection by the department and shall be maintained complete for a period of one year following any transaction;

iii. violation of this Subparagraph is a Class Two violation as described in Title 56.

h. Any alligator parts retailer purchasing finished alligator parts shall maintain a bill of sale for each purchase for a period of six months after such purchase and these records shall be available for inspection by the department. Violation of this Subparagraph is a Class Two violation as described in Title 56.

#### 12. Alligator Meat

a. Alligator meat from lawfully taken alligators can only be sold according to state and federal laws, Louisiana Department of Health and Hospitals regulations and Louisiana Wildlife and Fisheries Commission regulations. Violation of this Subparagraph is a Class Three violation as described in Title 56.

b. Alligator meat processed in the state of Louisiana and sold for human consumption must be processed in a licensed facility approved by the Louisiana Department of Health and Hospitals and the facility must display a valid permit issued by that agency. Violation of this Subparagraph is a Class Two violation as described in Title 56.

c. All processed alligator meat for sale must be packaged in suitable containers which identifies the contents as alligator meat, marked with a valid department license number and comply with all state and federal packaging and labeling requirements. Violation of this Subparagraph is a Class Two violation as described in Title 56.

d. All alligator meat shipped into the state and being offered for sale must meet all of Louisiana's health, processing, packaging and labeling requirements. Violation of this Subparagraph is a Class Two violation as described in Title 56.

#### 13. Disposal of Alligators by the Department

a. The department may sell alligators, alligator eggs or parts of alligators taken for any purpose deemed necessary for proper management of the species pursuant to Title 56.

b. The department may dispose of alligators, alligator eggs, or parts of alligators by donation or lending to a scientific institution or other institutions that the department deems have need for such alligators, however these institutions cannot sell or barter these animals which must be returned to the department at the conclusion of the program or need.

c. Confiscated alligator hides and parts may be destroyed by the department pending the outcome of the criminal trial.

d. Confiscated alligator eggs or live alligators may be sold or may be cared for by the department and released in suitable alligator habitat when and where they can survive when appropriate. All costs incurred by the department in the maintenance of these eggs and animals in captivity shall be the responsibility of the offender and restitution shall be made to the department. The department may consign confiscated alligators to a licensed farm for raising purposes and may compensate the farmer for his expenses by transferring ownership to him of a percentage of the confiscated alligators; not to exceed 50 percent.

#### 14. Alligator Egg Collection

a. Alligator egg collection permits are a three party permit between the department, the permittee and a landowner/ manager who owns or leases alligator nesting habitat determined by department biologists to be capable of producing alligator eggs. The numbers of eggs to be collected will be based upon biological management criteria and will be determined annually by technical staff of the department. The department only estimates the numbers of eggs available and assumes no responsibility or offers no guarantee that those numbers of eggs will be available. Alligator egg collection permits may be obtained upon application to the department on forms provided by the department. The annual deadline for submitting applications for alligator egg collection permits is June 1. This program is experimental and may be changed at any time based on biological data to insure for proper management of the wild alligator population.

b. Alligator egg collection permits may be issued by the department provided:

i. permittee is a properly licensed alligator farmer and meets all applicable requirements in Subsection A.15 of this Section (Alligator Farm Facility Requirements);

ii. all land documentation required on the alligator egg collection permit has been presented to the department;

iii. department biologists determine the properties described on the permit application are indeed alligator nesting habitat and can sustain alligator egg collections;

iv. applicant has obtained all legal and necessary signatures from landowners/land managers.

c. It is unlawful for an alligator farmer or a permitted designated collection agent to collect eggs from properties other than those described in the alligator egg collection permit. Violation of this Subparagraph is a Class Four violation as described in Title 56.

d. An alligator farmer or designated collection agent in the act of collecting or possessing alligator eggs must possess on his or her person a copy of the fully executed alligator egg collection permit. The designated collection agent must also possess a valid designated collection agent permit. Violation of this Subparagraph is a Class Three violation as described in Title 56.

e. Collection of wild alligator eggs can only be made after contacting the appropriate regional supervisor of the Enforcement Division no less than 24 hours prior to each collection trip. Violation of this Subparagraph is a Class Three violation as described in Title 56.

f. Alligator eggs can only be collected from the wild from official sunrise to official sunset and only during the established alligator egg collection season and shall not exceed the number on his Alligator Egg Collection Permit. Violation of this Subparagraph is a Class Four violation as described in Title 56.

g. Alligator eggs collected from the wild must be collected and transported in a manner which insures the greatest survival of viable eggs as determined by department biologists. Violation of this Subparagraph is a Class Three violation as described in Title 56.

h. Failure to hatch at least 70 percent of viable alligator eggs collected from the wild shall be considered a waste of Louisiana's natural resources. All alligator egg collection permits shall be revoked and no new permits issued should an alligator farmer be found to waste the resources of this state for two consecutive years.

i. Alligator egg collection permits shall be revoked and no new permits issued to alligator farmers who fail to average a minimum hatchling survival rate of 85 percent for two consecutive years.

j. The alligator egg collection permittee and the landowner are responsible for the return of the percentage of live alligators to the wild described on the alligator egg collection permit. This requirement is nontransferable. Minimum return rates will be based upon the state average hatching success which is 78 percent. In no case shall the return rate be less than 12 percent at 48 inches total length. Each alligator shall be returned to the original egg collection area within a maximum time of two years from date of hatching. Each alligator shall be a minimum of 36 inches and a maximum of 60 inches (no alligator over 60 inches total length will be accepted for release) in total length and the returned sex ratio should contain at least 50 percent females. The alligator egg collection permittee/landowner are responsible for and must compensate in kind for alligator mortality which occurs for department-authorized return to the wild alligators while being processed, stored, or transported. The department shall be responsible for supervising the required return of these alligators. A

department transfer authorization permit is not required for return to the wild alligators which are delivered to the farm of origin no more than 48 hours prior to being processed for wild release. Releases back to the wild will only occur between March 15 and August 25 of each calendar year provided that environmental conditions as determined by the department are favorable for survival of the released alligators. Any farmer who owes 1000 or more alligators at 48 inches must release at least 1/4 of the total owed for that year by April 30; at least another quarter by June 15, at least another quarter by July 31; and the remainder by August 25. A farmer may do more than the required one-fourth of his releases earlier if available unscheduled days allow. Should an alligator egg collection permittee be unable to release the required number of alligators to the wild from his own stock, he shall be required to purchase additional alligators from another farmer to meet compliance with the alligator egg collection permit and these regulations, as supervised by the department. Department-sanctioned participants in ongoing studies involving survivability and return rates are exempt from these requirements during the period of the study. Violation of this Subparagraph is a Class Four violation as described in Title 56.

k. The percentage of alligators to be returned to the wild shall be selected from the healthiest of all alligators of that year class. Abnormal or deformed alligators are not acceptable for release into the wild. It is unlawful for alligators that are to be returned to the wild to be transported out of state. Violation of this Subparagraph is a Class Four violation as described in Title 56.

#### 15. Alligator Farm Facility Requirements

a. All first time applicants for a nongame quadruped breeder's or exhibitor's license who will house alligators on their premises shall show compliance of the following minimum facilities as applicable to their particular operation during a required facility examination by department personnel prior to license issuance:

i. secured premises with adequate barriers to prevent escape of enclosed alligators and entry by alligators from outside the farm and to deter theft of alligators;

ii. source of clean, fresh water which shall be adequate to ensure for proper care of all alligator stock and facilities. This requirement shall be determined by department personnel;

iii. provisions for both dry area and pooled water within the secured area adequate for the numbers of alligators to be housed on the premises. This requirement will be determined by department personnel;

iv. provision for winter protection, either through adequate denning space or an enclosed, controlled-temperature environment of a design acceptable to the department;

v. all controlled-temperature alligator sheds (environmental chambers) shall be of a design acceptable to the department. Each shed shall maintain a minimum water and air temperature of 80° Fahrenheit. Minimum space requirements for alligators housed in the shed shall be:

(a). one square foot of space shall be required for each alligator less than 24 inches in length.

(b). three square feet of space shall be required for each alligator measuring 25 inches to 48 inches in length.

(c). one additional square foot of space shall be required for each additional 6 inches of alligator length for alligators above 4 feet in length;

vi. all alligator egg incubators shall be of a design acceptable to the department. Each incubator shall maintain a water and air temperature of 85° to 91° Fahrenheit during the egg incubation;

vii. applicant must be in compliance with all laws and regulations pertaining to zoning, construction, health and environmental standards and must possess any and all applicable permits and licenses;

viii. all alligator facilities should be constructed in a suitable location so as to minimize contact with people.

b. Following initial issuance of applicable license, all applicable facility requirements shall be adhered to and department personnel have the authority to inspect any and all of the facilities at any time. Failure to adhere to the requirements shall be a violation of these rules and violators will be given 60 days to correct the problem. Failure to comply shall result in confiscation of all animals and/or closure of all facilities. Violation of this Subparagraph is a Class Three violation as described in Title 56.

c. All alligator farmers possessing alligator eggs outside an alligator nest should house these eggs in an incubator providing constant temperature and humidity conditions. All incubators used to incubate alligator eggs shall be of a design to allow for maximum temperature control and conform to department requirements to allow for the maximum hatching success. Violation of this Subparagraph is a Class Three violation as described in Title 56.

d. All alligator farmers possessing alligator hatchlings shall house hatchlings in controlled environmental chambers which maintain a minimum temperature of 80° Fahrenheit year-round and containing dry and wet areas of sufficient surface area to permit all alligators to partially submerge in water. All alligators 48" or less in length shall be housed in environmental chambers unless a special permit is issued by the department to move them to outside growth areas. Violation of this Subparagraph is a Class Three violation as described in Title 56.

e. Alligator farmers shall house alligators of different lengths into at least three groups, providing separation for all alligators less than 2 feet in length, 2 to 4 feet in length, and over 4 feet in length. Land and water areas sufficient for partial submersion or exit from water shall be provided for each group of alligators held. Violation of this Subparagraph is a Class Three violation as described in Title 56.

f. All facilities, alligator stock, and records are subject to examination by department personnel prior to permitting and thereafter during farm operation. Violation of this Subparagraph is a Class Three violation as described in Title 56.

g. It shall be unlawful for alligator eggs or alligators to be moved from a licensed premises without permitting/approval of the department. Violation of this Subparagraph is a Class Three violation as described in Title 56.

h. Any alligator egg or alligator raised on an alligator farm shall be cared for under conditions that do not threaten the survival of such egg and alligator as determined by the biological staff of the Coastal and Nongame Resources Division. In making such determination, Coastal and Nongame Resources Division biologists shall take into consideration sanitary conditions, temperature control, feeding, overcrowding and other conditions which effect the survival of alligator eggs and alligators. If the biological staff of the Coastal and Nongame Resources Division determines that the survival of any alligator egg or alligator is threatened due to the conditions on an alligator farm, the department shall notify the alligator farmer and shall provide the farmer with 60 days to take corrective action. If the farmer fails to take corrective action within 60 days, the department shall have the authority to confiscate any alligator egg or alligator which remains under conditions that threaten the survival of such alligator egg or alligator and to dispose of such alligator egg or alligator as the department deems necessary. Violation of this Subparagraph is a Class Four violation as described in Title 56.

#### 16. Exceptions

a. The department or an authorized representative of the department may take by any means and possess alligators, alligator eggs, or parts of alligators while in the performance of official duties.

b. These regulations shall not prohibit a person from killing an alligator in immediate defense of his or her life or the lives of others. Alligators killed under this provision must be reported to the department within 24 hours.

#### 17. Penalty for Violation

a. In order to facilitate greater control over alligator trafficking, the Louisiana Department of Wildlife and Fisheries finds that public welfare imperatively requires emergency action when the provisions of these regulations are violated.

b. In addition to all penalties set forth herein, violators may be subject to criminal prosecution under provisions of the Louisiana Revised Statutes, particularly Titles 14 and 56 and under Federal law.

c. In addition to all other penalties provided by these rules and by statute, violation of any part of these regulations may result in the suspension and/or revocation of any or all alligator licenses/permits held by the violator and, as further penalty, for serious, repeat, or multiple violations, the department shall have the right to deny a violator any and all licenses/permits relating to alligators for a period not to exceed three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:259, R.S. 56:262, R.S. 56:263 and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000), LR 28:1996 (September 2002), LR 30:2338 (October 2004), LR 30:2878 (December 2004), LR 31:2267 (September 2005), LR 33:677 (April 2007), LR 35:

**Family Impact Statement**

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to Philip Bowman, Coastal and Nongame Resources Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898, prior to Thursday, February 5, 2009.

Patrick C. Morrow  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Alligator Regulations**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no state or local governmental implementation costs or savings associated with this proposed rule change.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will have no effect on revenue collections of state and local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Any alligator farmer who participates in the department's wild alligator egg collection program will be directly affected by this proposed rule change. The proposed rule change eliminates the 5 percent overage limitation on the number of alligators released in the size range of 55-60 inches total length; thus, allowing farmers to meet their return requirements by releasing alligators in the 36-60 inches total length sizes without any size-specific limitations. The proposed rule change would give farmers more flexibility in meeting their annual release requirements and in managing their on-farm alligator inventory and therefore may provide a slight economic benefit to farmers depending upon the actual size of alligators released in any given year. Any egg collection permits issued before this rule change is promulgated will be required to follow the rule requirements in place at the time the permit was issued.

The proposed rule change also modifies the definition of an alligator hunter helper in order to clarify the alligator hunting activities the helper is allowed to conduct.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change is anticipated to have no effect on competition and employment in the public and private sectors.

Wynette Kees  
Fiscal Officer  
0812#039

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Control of Nuisance Wild Quadrupeds (LAC 76:V.125)**

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do hereby advertise their intent to amend the rules for control of nuisance wild quadrupeds.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part V. Wild Quadrupeds and Wild Birds**

**Chapter 1. Wild Quadrupeds**

**§125. Control of Nuisance Wild Quadrupeds**

A. This rule applies only to the control of the wild quadrupeds listed below and only when they are conclusively proven to be creating a nuisance or causing damage to property. The burden of establishing that the animal in question is causing the property damage shall rest with the property owner.

B. The following wild quadrupeds may be taken year-round without permit by the property owner or his designee, with written landowner permission, but only by trapping or shooting during legal daylight hours:

- 1. coyote;
- 2. armadillo;
- 3. nutria;
- 4. beaver;
- 5. skunks; and
- 6. opossums.

C. Squirrels, rabbits, foxes, bobcats, mink, otter, muskrat, raccoons and any of the other species listed above may be trapped alive and relocated to suitable habitat without permit provided the following conditions are met.

1. Written permission is obtained from the property owner where the animals are to be released and such written permission is carried in possession while transport and release activities are taking place.

2. Animals are treated in a responsible and humane manner and released within 12 hours of capture.

D. Traps shall be set in such a manner that provides the trapped animal protection from harassment from dogs and other animals and direct sun exposure.

E. Nuisance animals listed above may be so controlled by the property owner or his designee with written landowner permission, to prevent further damage.

F. Property owners must comply with all additional local laws and/or municipal ordinances governing the shooting or trapping of wildlife or discharge of firearms.

G. No animal taken under this provision or parts thereof shall be sold. A valid trapping license is required to sell or pelt nuisance furbearers during the open trapping season.

H. No species taken under the provisions of this rule shall be kept in possession for a period of time exceeding 12 hours.

I. This rule has no application to any species of bird as birds are the subject of other state and federal laws, rules and regulations.

J. Game animals, other than squirrels and rabbits, may only be taken by hunting during the open season under the conditions set forth under Title 56 of the Louisiana Revised

Statutes and the rules and regulations of the Department of Wildlife and Fisheries.

K. A permit may be issued to landowners or their designees to take white-tailed deer during the closed season when deer are causing substantial damage to commercial agricultural crops or orchards. Crops or orchards of less than 5 acres will not be considered for permits unless alternative exclusionary methods, including electric fencing, have been attempted and proven unsuccessful. Loss of 25 percent or more of the expected production or value of a crop must be documented by a Louisiana Department of Agriculture and Forestry crop specialist or Louisiana State University Cooperative Extension Service agent. Emergency deer removal permits may be issued by Department of Wildlife and Fisheries Wildlife Division with approval by the Deer Program Manager and Enforcement Division. Landowners or their designees may take only the number of deer recommended by a Department of Wildlife and Fisheries biologist and specified on the permit. Only antlerless or unbranched antlered deer are legal for removal. All deer taken under this permit must be tagged in a manner specified on the permit before being moved from the site of the kill. Deer may only be taken during daylight hours and all deer meat will be salvaged and donated to a recipient or charitable organization approved by the Department of Wildlife and Fisheries. Biological samples may be requested by Department of Wildlife and Fisheries biologists for research and health monitoring purposes.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, 56:6(10), and (15), R.S. 56:112, et seq.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:2570 (December 2002), repromulgated LR 29:51 (January 2003), amended LR 35:

#### **Family Impact Statement**

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed rule to Mr. Kenneth Ribbeck, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., February 5, 2009.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Patrick C. Morrow  
Chairman

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Control of Nuisance Wild Quadrupeds**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Establishing and implementing regulations to manage deer populations is an ongoing process carried out using existing staff and funding levels. Implementing the proposed rule is anticipated to have no significant impact on costs, workload or paperwork. The state currently has sufficient funds in its budget to implement the proposed rule. No implementation costs or savings to local governmental units are anticipated.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule is anticipated to have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Commercial agricultural landowners and producers who are experiencing severe crop depredation by deer and are issued a deer removal permit to take a certain number of antlerless or unbranched antlered deer for nuisance control purposes on their property outside the normal sport hunting season will directly benefit from the proposed rule. They are anticipated to experience an increase in crop production which should result in higher revenues from the sale of their crop(s). In addition, deer hunters who hunt on or near these properties could receive direct benefits in the quality of deer harvested over time.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule is anticipated to have no effect on competition and employment in the public or private sectors.

Wynnette Kees  
Fiscal Officer  
0812#040

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

White Lake Wetlands Conservation Area Conservation  
Management Plan (LAC 76:III.335)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the rules and regulations for the White Lake Wetlands Conservation Area.

#### **Title 76**

#### **WILDLIFE AND FISHERIES**

#### **Part III. State Game and Fish Preserves and Sanctuaries Chapter 3. Particular Game and Fish Preserves,**

#### **Wildlife Management Areas, Refuges and Conservation Areas**

#### **§335. White Lake Wetlands Conservation Area Conservation Management Plan**

A. The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Louisiana Wildlife

and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Sections 109 and 799.5 of Title 56. Failure to comply with these regulations will subject the individual to citation and/or expulsion from the conservation area.

B. Citizens are cautioned that by entering the White Lake Wetlands Conservation Area (WCA) managed by LDWF, they are subject to inspections of themselves and/or their vehicles for game, fish and/or license checks, inspections, and searches.

C. The White Lake WCA seasons may be altered or closed anytime by the department secretary in emergency situations (flood, fire, or other critical circumstances).

D. Portions of the White Lake WCA are leased for various purposes, including, but not limited to, hunting, agriculture, grazing, trapping, and other surface activities and subsurface activities, including oil and gas operations. Lessees, oil and gas operator's, and their employees, agents, invitees, licensees, will adhere to the terms and conditions outlined in their prospective leases and agreements. In addition lessees and all others entering onto the White Lake WCA will adhere to the following rules and regulations.

1. White Lake WCA is a Restricted Use Area meaning that all persons other than employees of the Department or Lessee's, oil and gas operators, their employees, agents, invitees, licensees, will not be allowed to access the White Lake WCA unless they are participating in a lottery activity, a non-consumptive activity, or some other Wildlife and Fisheries sponsored or coordinated event. To participate in lottery or non-consumptive activities, please review the information provided below for each activity.

E. Dumping garbage or trash on White Lake WCA is prohibited. Garbage and trash shall be properly disposed of in designated locations if provided.

F. Disorderly conduct or hunting under the influence of alcoholic beverages, chemicals and other similar substances is prohibited.

G. Except for those rights granted under existing leases, damage to or removal of trees, shrubs, hard mast (acorn, pecans, etc.), wild plants, and non-game wildlife (including reptiles and amphibians) is prohibited without the prior approval from the White Lake WCA Manager or from the secretary.

H. Burning of the marsh is prohibited. Lessee may request special permission to do control burning, which must be approved by the White Lake WCA Manager or the Secretary.

I. Free ranging livestock prohibited.

J. Nature Trails. Trails shall be limited to pedestrians only. No vehicles, ATV's, horses, mules, bicycles, etc. allowed unless approved by the White Lake WCA Manager. Removal of vegetation (standing or down) or other natural material is prohibited.

K. Permits and Licenses

1. All persons shall be responsible for obtaining and possessing the proper license or licenses for the activities they will be engaged in when on the White Lake WCA. Proper identification and licenses must be readily available and presented to Wildlife and Fisheries personnel upon request. Licenses will not be available for purchase on site.

2. Special Note: A WMA permit will not be required to hunt on the White Lake WCA. In addition, persons using

the WCA for any purpose other than hunting will not be required to possess a wild Louisiana stamp.

3. Permits will be issued to lottery fishermen and those individuals must carry their permit on their person while on the White Lake WCA. No permits will be issued to lottery hunters since those hunts are daily hunts and are coordinated and accompanied by Wildlife and Fisheries personnel. Self Clearing Permits are not necessary for any activities.

L. Firearms

1. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms are not allowed in or on vehicles, boats under power, motorcycles, ATVs, ATCs while on the WCA except by wildlife enforcement agents and employees or contract guides working for the department at White Lake.

2. Firearms may not be carried on any area before or after permitted hours except by authorized trappers, lessees, wildlife enforcement agents and employees or contract guides working for the department at White Lake.

3. Firearms and bows and arrows are not allowed on the WCA during closed seasons. Exceptions are made for authorized lessees and individuals participating in coordinated shooting activities on the White Lake Skeet Range and Sporting Clay Course, wildlife enforcement agents and employees or contract guides working for the department at White Lake.

4. Center-fire rifles and handguns larger than .22 caliber rim fire, shotgun slugs or shot larger than BB lead or F steel shot cannot be carried onto the WCA except by authorized trappers, lessees, wildlife enforcement agents and employees or contract guides working for the department at White Lake.

5. Target shooting and other forms of practice shooting are prohibited. Exceptions are made for authorized lessees and individuals participating in coordinated shooting activities on the White Lake Skeet Range and Sporting Clay Course.

M. Waterfowl hunting is prohibited after noon on all portions of the White Lake WCA, including those areas which are leased for hunting purposes.

N. Commercial Activities. Commercial activities are prohibited without prior approval from White Lake WCA Manager and the secretary or unless otherwise specified.

O. Camping. Camping on the White Lake WCA, including trailers, houseboats, recreational vehicles and tents, is prohibited unless otherwise approved by the White Lake WCA Manager and the secretary or unless otherwise specified.

P. Consumptive Activities. The general framework for public use of consumptive resources of the White Lake Wetlands Conservation Area Management Plan is as follows:

Activities	Season	Cost
<b>Alligators</b>		
Wild Alligator Harvest	LDWF Season	40% of public bid
Alligator Egg Collection	June & July	Public bid
<b>Waterfowl</b>		
Teal Lottery Hunts	LDWF Season	\$250 per hunt with a maximum of 2 persons per blind
Youth/Physically Challenged	First Weekend	No cost

Activities	Season	Cost
<b>Hunts</b>		
Marsh Lottery Hunts	LDWF Season	\$350 per hunt with a maximum of 2 persons per blind
Rice Lottery Hunts	LDWF Season	\$225 per hunt with a maximum of 3 persons per blind
Group Hunts	LDWF Season	\$30,000 per group
<b>Fishing</b>	March 15- August 15	\$40 per permit

1. The number/quantity of alligators, eggs, hunters, groups and permits for the above activities shall be established annually based upon biological and technical data presented by the department to the board.

2. Commission members, and their immediate families, are prohibited from participating in any consumptive activities on the White Lake Wetlands Conservation Area, including lottery and group hunts and lottery fishing.

3. Currently all public hunting and fishing activities are done through a lottery system. Except for lessee's and their invited guest, no person may enter onto the White Lake WCA for the purpose of hunting or fishing unless they have applied and been selected for one of the lotteries offered. Lottery activities include, but may not be limited to, the following: Fishing Lottery, Teal Hunting Lottery, Waterfowl Marsh Hunting Lottery, Waterfowl Rice Field Hunting Lottery, Waterfowl Youth Hunting Lottery, Waterfowl Group Hunting Lottery. Details on these Lottery activities can be found seasonally, on the LDWF website [www.wlf.louisiana.gov](http://www.wlf.louisiana.gov). For more information contact the White Lake WCA Manager at 337-479-1894.

4. In addition to the Rules already mentioned, the following special Rules apply for the below lottery activities. These special Rules are subject to change each year and will be attached to the lottery applications when advertised on the LDWF website.

a. Fishing Lottery

i. Fishing will be allowed in the Florence Canal and Oil Field Location Canals off of the Florence Canal only.

ii. There will be no fishing in any of the marsh areas or in the main Camp Canal or other areas that are marked "NO FISHING".

iii. All boats will be limited to a maximum of 40 horsepower motor.

iv. All "No Wake" signs must be obeyed.

v. Fishing must be done from boat only.

vi. Rod and reel sport fishing only (no archery fishing, trot lines, jug lines etc.).

vii. Holder of the permit must be present (permit not transferable).

viii. There will be no boat launching from the White Lake properties. (Permittee must utilize public boat launch.)

ix. Permit holder must have permit and boat decal.

x. Any violations of Louisiana boating or fishing regulations or any rule violations will result in immediate termination of permit.

xi. Permittee will not be allowed to enter onto the White Lake WCA until sunrise and must exit the property by sunset.

xii. No firearms allowed on premises.

b. Teal Lottery Hunts

i. The Louisiana Department of Wildlife and Fisheries has established a lottery waterfowl (teal) hunt on White Lake property that has the potential to provide excellent waterfowl hunting. Hunts will be restricted to persons selected by lottery and will be limited to 2 persons/unit. All hunters will hunt as a group with a guide. No splitting up will be allowed. The primary purpose of these hunts is to provide a quality experience. Strict adherence to the following rules and regulations will be required to ensure a safe and enjoyable hunt.

(a). Safety is first and foremost in everyone's mind. No loaded firearms except while hunting in the blind. However, a hunter shall be allowed to carry a loaded firearm outside the blind to dispatch and retrieve wounded waterfowl. Take every precaution to have a safe and enjoyable hunt.

(b). Selected participants must arrive at the designated site by 5 a.m. Anyone arriving after 5 a.m. will not be allowed to enter the area. Hunting will end no later than 9 a.m.

(c). Guides and hunt area (blind) will be assigned the morning of the hunt.

(d). Access will be provided to a designated parking area. Transportation from the parking area to the site will be provided.

(e). Each hunter shall have appropriate licenses (basic license, state duck stamp, federal duck stamp, and HIP certification) prior to arrival. No licenses will be available at the hunting site. Licenses will be checked at the same time permits are reviewed. No one will be allowed in a hunting area without the proper lottery permit.

(f). Legal firearms, as specified in the hunting regulations pamphlet, except no 10 gauge shotguns will be allowed.

(g). Persons engaging in "sky busting" will be asked to leave.

(h). No dogs will be allowed.

(i). Hunters will be responsible for removing all litter from the area and surrounding areas.

(j). No alcoholic beverages will be permitted on the premises.

c. Marsh Waterfowl Lottery Hunt

i. The Louisiana Department of Wildlife and Fisheries has established a lottery waterfowl marsh hunt on White Lake property that has the potential to provide excellent waterfowl hunting. Hunts will be restricted to persons selected by lottery and will be limited to 2 persons/unit. All hunters will hunt as a group with a guide. No splitting up will be allowed. The primary purpose of these hunts is to provide a quality experience. Strict adherence to the following rules and regulations will be required to ensure a safe and enjoyable hunt.

(a). Safety is first and foremost in everyone's mind. No loaded firearms except while hunting in the blind. However, a hunter shall be allowed to carry a loaded firearm outside the blind to dispatch and retrieve wounded

waterfowl. Take every precaution to have a safe and enjoyable hunt.

(b). Selected participants must arrive at the designated site by the time specified in your notification letter. Anyone arriving after that time will not be allowed to enter the area. Hunting will begin in the morning at legal shooting time and will end no later than 9 a.m.

(c). Guides and hunt area (blind) will be assigned the morning of the hunt.

(d). Access will be provided to a designated parking area. Access from the parking area to the site will be provided.

(e). Each hunter shall have appropriate licenses (basic license, state duck stamp, federal duck stamp, and HIP certification) prior to arrival. No licenses will be available at the hunting site. Licenses will be checked at the same time permits are reviewed. No one will be allowed in a hunting area without the proper lottery permit.

(f). Legal firearms, as specified in the hunting regulations pamphlet, except no 10 gauge shotguns will be allowed.

(g). Persons engaging in "sky busting" will be asked to leave.

(h). No dogs will be allowed.

(i). Hunters will be required to report their total kill in writing at the end of the hunt.

(j). Hunters will also be responsible for removing all litter from the area and surrounding areas.

(k). No alcoholic beverages will be permitted on the premises.

#### d. Rice Field Waterfowl Lottery Hunt

i. The Louisiana Department of Wildlife and Fisheries has established a lottery waterfowl (rice field) hunt on White Lake property that has the potential to provide excellent waterfowl hunting. Hunts will be restricted to persons selected by a lottery and will be limited to 3 persons/unit. Blinds and decoys are provided; however, no guides will be provided for the rice field hunts. No splitting up will be allowed. The primary purpose of these hunts is to provide a quality experience. Strict adherence to the following rules and regulations will be required to ensure a safe and enjoyable hunt.

(a). Safety is first and foremost in everyone's mind. No loaded firearms except while hunting in the blind. However, a hunter shall be allowed to carry a loaded firearm outside the blind to dispatch and retrieve wounded waterfowl. Take every precaution to have a safe and enjoyable hunt.

(b). Selected participants must arrive at the designated site by the time specified in the notification letter. Anyone arriving after that time will not be allowed to enter the area. Hunting will begin in the morning at legal shooting time and will end no later than 9:30 a.m.

(c). Hunters will be required to stay in blind during hunt except to retrieve birds.

(d). Access will be provided to a designated parking area. Transportation to and from the parking area to the blinds will be provided. Selected participants may be required to walk a minimum of 200 yards across a flooded rice field carrying their gear.

(e). Each hunter shall have appropriate licenses (basic license, state duck stamp, federal duck stamp, and HIP

certification) prior to arrival. No licenses will be available at the hunting site. Licenses will be checked at the same time permits are reviewed. No one will be allowed in a hunting area without the proper lottery permit.

(f). Legal firearms, as specified in the hunting regulations pamphlet, except no 10 gauge shotguns will be allowed.

(g). Persons engaging in "sky busting" will be asked to leave.

(h). Retrieving dogs will be allowed but only one dog per blind.

(i). Hunters will be required to report their total kill in writing at the end of the hunt.

(j). Hunters will be responsible for removing all litter from the area and surrounding areas.

(k). No alcoholic beverages will be permitted on the premises.

#### e. Youth Waterfowl Hunt Lottery

i. The Louisiana Department of Wildlife and Fisheries has established a guided lottery youth waterfowl hunt on White Lake property that has the potential to provide excellent waterfowl hunting. Hunts will be restricted to persons selected by a lottery with one person being selected from each of 7 geographical regions of the state and one person being selected from the state at large. The hunt will be limited to 2 persons/unit (a youth under the age of 16 and a parent or guardian). All hunters will hunt with a guide. The primary purpose of these hunts is to provide a quality experience for young waterfowl hunters. Strict adherence to the following rules and regulations will be required to ensure a safe and enjoyable hunt.

(a). Safety is first and foremost in everyone's mind. No loaded firearms except while hunting in the blind. However, a hunter shall be allowed to carry a loaded firearm outside the blind to dispatch and retrieve wounded waterfowl. Take every precaution to have a safe and enjoyable hunt.

(b). Selected participants must arrive at the designated site outlined on your notification letter by 5:15 a.m. Anyone arriving after 5:15 a.m. will not be allowed to enter the area. Hunting will end no later than 9 a.m.

(c). Guide and blind assignments will be made the morning of the hunt.

(d). Access will be provided to a designated parking area. Transportation from the parking area to the site will be provided.

(e). Legal firearms, as specified in the hunting regulations pamphlet, except no 10 gauge shotguns will be allowed.

(f). Persons engaging in "sky busting" will be asked to leave.

(g). No retrievers/dogs will be allowed.

(h). Hunters will be responsible for removing all litter from the area.

(i). Only hunters under the age of 16 will be allowed to possess and shoot a firearm.

(j). Hunters should be familiar with the firearm they will be shooting and be capable of handling it in a safe manner.

Q. Other Hunting Activities. There are currently no other public hunting opportunities available on the White Lake

WCA. This includes deer hunting and all other game birds and animals.

R. Non-Consumptive Activities—Schedule of Costs for Public Use of Facilities for Non-Consumptive Activities.

1. Daily Use

a. \$300—includes one day use of lodge for meetings with nothing provided (for up to 15 people, weekdays only).

b. \$300 + \$10/person—includes one day use of lodge for meetings with coffee, cold drinks and bottled water provided.

c. \$300 + \$20/person—includes one day use of lodge for meetings with coffee, cold drinks, bottled water and lunch provided. The lunch provided will consist of a sandwich tray and chips or something similar. It will not include a hot lunch.

d. Exemptions from Cost. When a state, federal or local agency or university conducts research or educational activities in cooperation with the department, or conducts activities of benefit to White Lake or the department, the above costs shall be exempt. Costs for food and drink (\$10 per person for drinks, \$20 per person per meal) may be assessed.

2. Overnight Use

a. \$400 + \$25/person/night—includes overnight stay at lodge with nothing provided except linens. (For up to 12 people, weekdays only).

b. \$400 + \$35/person/night—includes overnight stay at lodge with coffee, cold drinks, bottled water and linens provided.

c. \$900 + \$35/person/night—includes overnight stay at lodge with coffee, cold drinks, bottled water, meals (breakfast, lunch and supper) and linens provided.

d. Exemptions from Cost. When a state, federal or local agency or university conducts research or educational activities in cooperation with the department, or conducts activities of benefit to White Lake or the department, the above costs shall be exempt. Costs for food and drink (\$10 per person for drinks, \$20 per person per meal) may be assessed.

e. Exemptions from all costs apply to all persons invited by the department to department sponsored events related to education, conservation or fish or wildlife related issues.

3. Skeet Range

a. \$10/person/25 clay pigeons.

b. \$15/person/25 clay pigeons, 25 shotgun shells provided.

c. Exemptions from all costs apply to all persons invited by the department to department sponsored events related to education, conservation or fish or wildlife related issues.

4. Boat Tour

a. \$10/person/ride—limited to authorized function attendees.

b. Exemptions from Cost. When a state, federal or local agency or university conducts research or educational activities in cooperation with the department, or conducts activities of benefit to White Lake or the department, the above costs shall be exempt. Costs for food and drink (\$10 per person for drinks, \$20 per person per meal) may be assessed.

5. Use of facilities is subject to availability as well as staff availability and other scheduled events on the area. The facilities shall not be made available for political fundraisers.

6. The department shall determine appropriate insurance or indemnity requirements for use of the facilities.

7. The Louisiana Department of Wildlife and Fisheries establishes dates each year for the use of White Lake WCA facilities, located within the WCA in Vermilion Parish, for non-consumptive group activities including nature photography, bird watching, educational field trips, and business retreats. These dates and more information about the facilities available and associated costs will be posted on the LDWF website on or around the first of each year. The website address is [www.wlf.louisiana.gov](http://www.wlf.louisiana.gov). On the home page click on the hunting tab located near the top of the page and then click on White Lake WCA for information.

8. The primary purpose of non-consumptive access to White Lake WCA is to provide a quality experience within a unique environment preserved as fish and wildlife habitat.

9. In addition to the Rules already mentioned, the following special Rules apply to the non-consumptive activities. These special Rules are subject to change each year and may be revised on the website posting. Strict adherence to all rules and regulations will be required to ensure a safe and enjoyable experience.

a. Safety is a primary consideration. All visitors must adhere to posted safety rules and directions provided by site staff while on the property.

b. Access will be provided to a designated parking area.

c. Boat transportation to and from the site will be provided as part of the day use and overnight use access. Group participants must arrive at the White Lake WCA boat dock at the designated departure time (9 a.m. for day use; and no later than 4 p.m. for overnight use). The site boat dock is located at the southernmost end of Highway 91, south of Gueydan.

d. Boat guides for boat tours and biologists for lecture sessions must be requested in advance of the group's arrival on site.

e. No firearms may be brought on to the WCA unless authorized by LDWF.

f. Visitors must adhere to no littering rules on site.

g. All group use dates must be requested at least two weeks in advance.

h. A deposit of \$100 is required to reserve a date on the non-consumptive schedule.

AUTHORITY NOTE: Promulgated in accordance with Act 613 of the 2004 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:538 (March 2007), amended LR 33:1882 (September 2007), LR 35:

**Family Impact Statement**

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of

intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed Rule to Mr. Jimmy Anthony, Assistant Secretary, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, February 5, 2009.

Patrick C. Morrow  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: White Lake Wetlands Conservation  
Area Conservation Management Plan**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Implementation of the proposed rule will be carried out using existing staff and funding levels. No increase or decrease in costs is anticipated to implement the proposed rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change is estimated to increase state revenue collections deposited in the White Lake Property Fund by \$80,275 in Fiscal Year 09-10 and in Fiscal Year 10-11. The increase in state revenue collections will depend on the number of applications received, the specific activities requested and the availability of the facilities and staff at the requested time of

usage; and assumes the same number of hunts in Fiscal Year 09-10 and in Fiscal Year 10-11 as scheduled in Fiscal Year 08-09.

Local revenue collections of governmental units are not anticipated to be impacted.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

The proposed rule will affect individuals or groups who use the facilities or who participate in consumptive or non-consumptive wildlife or fishing activities on the White Lake Wetlands Conservation Area. While on the White Lake Wetlands Conservation Area, they would be required to follow the rules and regulations outlined within the proposed rule. Failure to comply with the rules and regulations will subject the individual(s) to citation and/or expulsion from the conservation area. In addition, those individuals who are participating in lottery and/or group hunts conducted on the White Lake Wetlands Conservation Area may experience an increase in fee charges.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

The proposed rule is anticipated to have no effect on competition and employment in the public and private sectors.

Wynnette Kees  
Fiscal Officer  
0812#017

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

# Potpourri

## POTPOURRI

**Department of Agriculture and Forestry  
Forestry Commission  
and  
Department of Revenue  
Tax Commission**

### Timber Stumpage Values

The Louisiana Forestry Commission and the Louisiana Tax Commission met jointly on December 8, 2008, which is the second Monday in December, as required by the provisions of R.S. 47:633. Both commissions adopted the following timber stumpage valuations for 2009.

These valuations take effect on January 1, 2009 and continue through December 31, 2009.

Trees and Timber	Price/Scale	Price/Ton
Pine Sawtimber	\$314.08/MBF	\$39.26/Ton
Hardwood & Cypress Sawtimber	\$294.63/MBF	\$31.01/Ton
Pine Chip and Saw	\$80.15/CD	\$29.68/Ton
Pulpwood		
Pine Pulpwood	\$26.15/CD	\$9.68/Ton
Hardwood & Cypress Pulpwood	\$17.02/CD	5.97/Ton
Conversion Factors		
MBF Pine Doyle Scale	= 16,000	= 8.00 Tons
MBF Hardwood Doyle Scale	= 19,000	= 9.50 Tons
Cord Pine	= 5,400 lbs	= 2.70 Tons
Cord Hardwood	= 5,700 lbs	= 2.85 Tons
Chip-N-Saw	= 5,400 lbs	= 2.70 Tons

Signed and attested to this 10th day of December, 2007.

Wade Dubea  
Assistant Commissioner

0812#029

## POTPOURRI

**Office of the Governor  
Division of Administration  
Office of Information Technology (OIT)**

### OIT Bulletins Published

Pursuant to LAC 4:XV.501 et seq., the Office of Information Technology (OIT) published the following Bulletin(s) in the period 11/01/2008 to 11/30/2008:

Bulletin Number	Topic	Date
ITB 08-09	Louisiana Tech Data Replication / Backup Center (DRC)	11/21/2008

OIT Bulletins, Standards, Guidelines and Policies are posted on the OIT web site at: <http://oit.louisiana.gov>

To receive e-mail notifications when an OIT Bulletin is published, register at <http://oit.louisiana.gov>

Ed Driesse  
Chief Information Officer

0812#019

## POTPOURRI

**Office of the Governor  
Office of Financial Institutions**

### Judicial Interest Rate Determination for 2009

R.S. 13:4202(B), as amended by Acts 2001, No. 841, requires the Louisiana Commissioner of Financial Institutions to determine the judicial interest rate for the calendar year following the calculation date. The commissioner has determined the judicial interest rate for the calendar year 2009 in accordance with R.S. 13:4202(B)(1).

The commissioner ascertained that on October 1, 2008 the approved discount rate of the Federal Reserve Board of Governors was 2.25 percent.

R.S. 13:4202(B)(1) mandates that on and after January 1, 2002, the judicial interest rate shall be three and one-quarter percentage points above the Federal Reserve Board of Governors approved discount rate on October 1, 2008. Thus, the effective judicial interest rate for the calendar year 2009 shall be 5.50 percent per annum.

R.S. 13:4202(B)(2) provides that the publication of the commissioner's determination in the *Louisiana Register* "shall not be considered rulemaking within the intendment of the Administrative Procedure Act, R.S. 49:950 et seq., and particularly R.S. 49:953." Therefore, (1) a fiscal impact statement, (2) a family impact statement, and (3) a notice of intent are not required to be filed with the *Louisiana Register*.

John P. Ducrest, C.P.A.  
Commissioner

0812#089

## POTPOURRI

**Office of the Governor  
Oil Spill Coordinator's Office**

### Duck Lake Oil and Gas Field Crude Oil Discharge Draft Settlement Agreement

**Action:** Notice of availability of a Draft Settlement Agreement (Draft SA) with a 30-day public review and comment period on the Draft SA document and the Draft Restoration Implementation and Monitoring Plan (Draft RIMP) for LOSCO NRDA case #LA2002\_1204\_1200.

**Agencies:** Louisiana Oil Spill Coordinator's Office, Office of the Governor (LOSCO); Louisiana Department of Environmental Quality (LDEQ); and Louisiana Department of Wildlife and Fisheries (LDWF).

**Authorities:** The Oil Pollution Act of 1990 (OPA) (33 USC 2701 et seq.) and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPR) (La. Rev. Stat. 30:2451 et seq.) are the principal federal and state statutes, respectively, authorizing federal and state agencies and tribal officials to act as natural resource trustees for the recovery of damages for injuries to trust resources and services resulting from oil spill incidents in Louisiana. In accordance with OPA and OSPRA, the agencies listed above (referred to herein as the "Trustees") have conducted a Natural Resource Damage Assessment (NRDA) for the unauthorized discharge of crude oil into the Duck Lake oil and gas field, located in St. Martin Parish, Louisiana, on or about December 4, 2002 (referred to herein as "the incident" for NRDA case file #LA2002\_1204\_1200 [Duck Lake 2002]), in which Hilcorp Energy Company (Hilcorp) was identified by the Trustees as the Responsible Party.

**Summary:** Pursuant to La. Admin. Code 43:XXIX, Chapter 1, notice is hereby given that a document entitled, "Draft Settlement Agreement Duck Lake 2002" will become available for public review and comment on December 20, 2008. The Draft SA was negotiated by the Trustees and Hilcorp to recover damages for injuries to natural resources and services resulting from the incident. The Draft SA is a binding agreement in which Hilcorp agrees to: 1) pay the Trustees for their past assessment and future implementation costs, and any corrective action costs associated with the performance of the "Bayou Grand Coteau Coastal Forested Wetland Conversion Project" (referred to herein as the "Restoration Project"); 2) pay all costs associated with implementing the Restoration Project, which was selected in the Final Damage Assessment and Restoration Plan (Final DARP); and 3) fully implement the Restoration Project according to the Draft Restoration Implementation and Monitoring Plan (Draft RIMP). The Draft SA document and Draft RIMP are available to the public for a 30-day comment period, which will begin on the date of this public notice announcing availability of the documents for public review. The Trustees invite the public to review these documents and submit comments to the address listed below. The Trustees will consider comments received during the public comment period on the Draft SA document and Draft RIMP before finalizing the Settlement Agreement. Execution of the Final SA by the Trustees and Hilcorp shall provide the basis for compensating the public for injuries to natural resources and services resulting from the incident. Public review of the Draft SA and Draft RIMP is consistent with all state laws and regulations that apply to the NRDA process, including Section 2480 of the Louisiana Oil Spill Prevention and Response Act (OSPR), La. Rev. Stat. 30:2451 et seq.; and the regulations for NRDA under OSPRA, La. Admin. Code 43:XXIX, Chapter 1.

Interested members of the public are invited to view the Draft SA document and Draft RIMP via the internet at <http://www.losco.state.la.us> (look under News Flash for Duck lake 2002 Oil Spill) or by requesting a copy of the documents from Gina Muhs Saizan at the address provided below:

Gina Muhs Saizan  
Louisiana Oil Spill Coordinator's Office  
Office of the Governor  
150 Third Street, Suite 405  
Baton Rouge, LA 70801  
gina.saizan@la.gov

**Comment Submittals:** Comments must be submitted in writing or digitally to Gina Muhs Saizan on or before the end of the 30-day comment period.

**For Further Information:** Contact Gina Muhs Saizan at (225) 219-5800 or by email at [gina.saizan@la.gov](mailto:gina.saizan@la.gov).

**Supplementary Information:** On September 20, 2004, the Trustees published a Notice of Intent in the *Louisiana Register* (Vol. 30, No. 09, pp. 2214-2215) to conduct restoration planning for the incident in order to develop restoration alternatives that will restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of the incident. On September 20, 2007, the Trustees published a Notice of Availability of a Draft DARP in the *Louisiana Register* (Vol. 33, No. 09, pp. 1960-1961) that presented the Trustees' assessment of injuries to natural resources and services attributable to the incident and their plan to restore, replace, or acquire natural resources or services equivalent to those lost, as a basis for compensating the public for the injuries resulting from the incident. The public was given an opportunity to review and comment on the Draft DARP during the public comment period, which extended from September 20, 2007 through October 20, 2007. The Trustees did not receive any comments on the Draft DARP and published a Notice of Availability of a Final DARP in the *Louisiana Register* (Vol. 33, No. 11, p. 2522) on November 20, 2007, which selected the "Bayou Grand Coteau Coastal Forested Wetland Conversion Project" for implementation by Hilcorp.

Roland Guidry  
Oil Spill Coordinator

0812#043

## POTPOURRI

### Office of the Governor Oil Spill Coordinator's Office

East Lake Palourde Crude Oil Discharges Reported on  
June 11, 2002 Draft Settlement Agreement

**Action:** Notice of availability of a Draft Settlement Agreement (Draft SA) with a 30-day public review and comment period on the Draft SA document and the Draft Restoration Implementation and Monitoring Plan (Draft RIMP) for LOSCO NRDA case #LA2002\_0611\_1715.

**Agencies:** Louisiana Oil Spill Coordinator's Office, Office of the Governor (LOSCO); Louisiana Department of Environmental Quality (LDEQ); and Louisiana Department of Wildlife and Fisheries (LDWF).

**Authorities:** The Oil Pollution Act of 1990 (OPA) (33 USC 2701 et seq.) and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPR) (La. Rev. Stat. 30:2451 et seq.) are the principal federal and state statutes, respectively, authorizing federal and state agencies and tribal officials to act as natural resource trustees for the recovery of

damages for injuries to trust resources and services resulting from oil spill incidents in Louisiana. In accordance with OPA and OSPRA, the agencies listed above (referred to herein as the "Trustees") have conducted a Natural Resource Damage Assessment (NRDA) for the reported unauthorized discharges of crude oil into the swamp of East Lake Palourde, located in Assumption Parish, Louisiana, on June 11, 2002 (referred to herein as "the incident" for NRDA case file #LA2002\_0611\_1715 [Lake Palourde 2002]), in which Union Oil Company of California (Unocal) was identified by the Trustees as the Responsible Party.

**Summary:** Pursuant to La. Admin. Code 43:XXIX, Chapter 1, notice is hereby given that a document entitled, "Draft Settlement Agreement Lake Palourde 2002" will become available for public review and comment on December 20, 2008. The Draft SA was negotiated by the Trustees and Unocal to recover damages for injuries to natural resources and services resulting from the incident. The Draft SA is a binding agreement in which Unocal agrees to: 1) pay the Trustees for their past assessment and future implementation costs, and any corrective action costs associated with the performance of the "Bayou Grand Coteau Coastal Forested Wetland Conversion Project" (referred to herein as the "Restoration Project"); 2) pay all costs associated with implementing the Restoration Project, which was selected in the Final Damage Assessment and Restoration Plan (Final DARP); and 3) fully implement the Restoration Project according to the Draft Restoration Implementation and Monitoring Plan (Draft RIMP). The Draft SA document and Draft RIMP are available to the public for a 30-day comment period, which will begin on the date of this public notice announcing availability of the documents for public review. The Trustees invite the public to review these documents and submit comments to the address listed below. The Trustees will consider comments received during the public comment period on the Draft SA document and Draft RIMP before finalizing the Settlement Agreement. Execution of the Final SA by the Trustees and Unocal shall provide the basis for compensating the public for injuries to natural resources and services resulting from the incident. Public review of the Draft SA and Draft RIMP is consistent with all state laws and regulations that apply to the NRDA process, including Section 2480 of the Louisiana Oil Spill Prevention and Response Act (OSPRA), La. Rev. Stat. 30:2451 et seq.; and the regulations for NRDA under OSPRA, La. Admin. Code 43:XXIX, Chapter 1.

Interested members of the public are invited to view the Draft SA document and Draft RIMP via the internet at <http://www.losco.state.la.us> (look under News Flash for Lake Palourde 2002 Oil Spill) or by requesting a copy of the documents from Gina Muhs Saizan at the address provided below:

Gina Muhs Saizan  
Louisiana Oil Spill Coordinator's Office  
Office of the Governor  
150 Third Street, Suite 405  
Baton Rouge, LA 70801  
[gina.saizan@la.gov](mailto:gina.saizan@la.gov)

**Comment Submittals:** Comments must be submitted in writing or digitally to Gina Muhs Saizan on or before the end of the 30-day comment period.

**For Further Information:** Contact Gina Muhs Saizan at (225) 219-5800 or by email at [gina.saizan@la.gov](mailto:gina.saizan@la.gov).

**Supplementary Information:** On March 20, 2004, the Trustees published a Notice of Intent in the *Louisiana Register* (Vol. 30, No. 03, pp. 702-704) to conduct restoration planning for the incident in order to develop restoration alternatives that will restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of the incident. On September 20, 2006, the Trustees published a Notice of Availability of a Draft DARP in the *Louisiana Register* (Vol. 32, No. 09, pp. 1714-1715) that presented the Trustees' assessment of injuries to natural resources and services attributable to the incident and their plan to restore, replace, or acquire natural resources or services equivalent to those lost, as a basis for compensating the public for the injuries resulting from the incident. The public was given an opportunity to review and comment on the Draft DARP during the public comment period, which extended from September 20, 2006 through October 20, 2006. The Trustees did not receive any comments on the Draft DARP and published a Notice of Availability of a Final DARP in the *Louisiana Register* (Vol. 32, No. 12, p. 2498) on December 20, 2006, which selected the "Bayou Grand Coteau Coastal Forested Wetland Conversion Project" for implementation by Unocal.

Roland Guidry  
Oil Spill Coordinator

0812#044

## POTPOURRI

### Department of Health and Hospitals Board of Veterinary Medicine

#### Spring/Summer Examination Dates

The Louisiana Board of Veterinary Medicine will administer the State Board Examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e., holiday, weather).

The board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the National Board of Veterinary Medical Examiners (NBVME), formerly the National Board Examination Committee (NBEC), as follows:

Test Window Date	Deadline To Apply
April 13 through April 25, 2009	Monday, January 3, 2009

The board will also accept applications for and administer the Veterinary Technician National Examination (VTNE) for state registration of veterinary technicians as follows:

Test Date	Deadline To Apply
Friday, June 19, 2009	Friday, May 8, 2009

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early

as possible for review and acceptance. Applications and information may be obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801 and by request via telephone at (225) 342-2176 or by e-mail at lbvm@eatel.net; application forms and information are also available on the website at www.lsbvm.org.

**Board Nominations**

The Louisiana Board of Veterinary Medicine announces that nominations for the position of Board Member will be taken by the Louisiana Veterinary Medical Association (LVMA) at the annual winter meeting to be held February 2009. Interested persons should submit the names of nominees directly to the LVMA as per La. R.S. 37:1515. It is not necessary to be a member of the LVMA to be nominated. The LVMA may be contacted at (225) 928-5862.0

Wendy D. Parrish  
Administrative Director

0812#003

**POTPOURRI**

**Department of Natural Resources  
Office of Conservation**

**Orphaned Oilfield Sites**

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Ceka Gas, Div of Gtc	Monroe	M	Burford	1	146169
Latex Petroleum Corp.	Bayou Choctaw	L	Gay Union Corporation	23	50796(30)
Supreme Oil and Gas Co.	Wildcat-So La Lafayette Dist	L	Gray	2	9897
Masters Resources, L.L.C.	Bayou Sorrel	L	Cib H 2 Ra Sua;Schwing	1	207912
Masters Resources, L.L.C.	Bayou Sorrel	L	Schwing Etal	2	234487
Masters Resources, L.L.C.	Bayou Sorrel	L	E B Schwing Swd	1	972459
Masters Resources, L.L.C.	Bully Camp	L	Waterford Oil Co A	3	82793
Masters Resources, L.L.C.	Bully Camp	L	Tex W 1 Ra Sua;Waterford B	1	83206
Masters Resources, L.L.C.	Bully Camp	L	Tex W 1 Ra Sua; Waterford A	3D-ALT	83365

Operator	Field	District	Well Name	Well Number	Serial Number
Masters Resources, L.L.C.	Bully Camp	L	Waterford Oil Company B	1-D	84092
Masters Resources, L.L.C.	Mermentau	L	Charles Fruge	1	150288
Masters Resources, L.L.C.	Southeast Pass	L	Plio Ra Sua; SI 11107	1	195995
Masters Resources, L.L.C.	Southeast Pass	L	4800 Ra Sua;SI 9646	1	200174
Masters Resources, L.L.C.	Southeast Pass	L	Plio Ra Sub;SI 11107	2	207710

James H. Welsh  
Commissioner of Conservation

0812#018

**POTPOURRI**

**Department of Natural Resources  
Office of the Secretary**

**Fishermen's Gear Compensation Fund**

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 12 claims in the amount of \$41,870.49 were received for payment during the period November 1, 2008 - November 30, 2008.

There were 12 claims paid and 0 claims denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2912.419	8959.867	Jefferson
2918.145	8924.311	Plaquemines
2918.360	9103.123	Terrebonne
2924.085	9002.594	Jefferson
2924.511	8939.075	Plaquemines
2930.296	8954.482	Plaquemines
2930.717	9005.742	Jefferson
2934.77	9142.558	Iberia
2938.510	8934.410	Plaquemines
2947.289	8936.704	St. Bernard
2948.541	8950.502	St. Bernard
2949.150	8939.020	St. Bernard

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225) 342-0122.

Scott A. Angelle  
Secretary

0812#010

**CUMULATIVE INDEX**  
**(Volume 34, Number 12)**

<b>2008</b>	
<b>Pages</b>	<b>Issue</b>
1-212.....	January
213-366.....	February
367-566.....	March
567-840.....	April
841-959.....	May
960-1296.....	June
1297-1580.....	July
1581-1778.....	August
1779-1980.....	September
1981-2325.....	October
2326-2520.....	November
2521-2787.....	December

  

EO—Executive Order
PPM—Policy and Procedure Memoranda
ER—Emergency Rule
R—Rule
N—Notice of Intent
CR—Committee Report
GR—Governor's Report
L—Legislation
P—Potpourri

**ADMINISTRATIVE CODE UPDATE**

**Cumulative**

- January 2007—December 2007, 205
- January 2008—March 2008, 831
- January 2008—June 2008, 1571

**AGRICULTURE AND FORESTRY**

**Agriculture and Environmental Sciences, Office of**

- 2008 quarantine listing, 1573P, 2314P
- 2, 4-D or products containing 2, 4-D, 570ER
- Milk producer tax credit, 707N
- Pesticides, 2686N

**Agro-Consumer Services**

- Cotton indemnity fund, 2689N
- Fuel specifications, 1987ER, 1988ER
- Grain indemnity fund, 2689N
- Petroleum Products, 1641N, 1849ER, 2548R

**Weights and Measures Division**

- Handbook 130, 408R

**Animal Health, Board of**

- Equine infectious anemia testing, 2417N

**Crawfish Promotion and Research Board**

- Crawfish promotion, 2418N

**Commissioner, Office of**

- Agritourism, 2212N
- Market Bulletin subscription fee, 2693N
- Milk producers tax credit, 570ER, 1598R
- Fixed Wing Aircraft
- Commercial Aerial Pesticide Applications, 1847ER

**Forestry Commission**

- Timber Stumpage Values, 2774P

**AGRICULTURE AND FORESTRY (continued)**

**Horticulture Commission**

- Arborist examination, 1987ER
- Annual quarantine listing, 832P
- Asian citrus psyllid quarantine, 1309ER
- Brucellosis, 1451N, 2336R
- Citrus greening disease, 1309ER
- Definitions, 1540N, 2547R
- Enforcement, 1540N, 2547R
- Forestry productivity, 1453N, 2337R
- Landscape architect
- Registration exam, 208P, 361P, 1764P, 1969P
- Landscape horticulturist, 2683N
- Licensee requirements, 1540N, 2547R
- Livestock brands, 1455N, 2548R
- Retail floristry exam, 361P, 953P, 1764P, 2503P, 2685N
- Stop orders, 1450N, 2547R

**Seed Commission**

- Germination tolerances, 1455N, 2338R
- Seeds, 99N, 863R

**Structural Pest Control Commission**

- Administration, 2214N
- Agritourism, 2212N
- Applications, 2214N
- Examinations, 2214N
- Manufacturers, 2503P
- Termiticides, 1257P, 2503P

**CIVIL SERVICE**

**Civil Service Commission**

- Rules, 2217N

**Division of Administrative Law**

- Ethics Adjudicatory Board, 710N, 1346R
- Discipline, 1050N
- Corrective action, 1050N
- Separations, 1050N

**Ethics, Board of**

- Reports, 2419N

**CULTURE, RECREATION AND TOURISM**

**Cultural Development, Office of the**

- Cultural districts, 100N, 599R

**ECONOMIC DEVELOPMENT**

**Boxing and Wrestling Commission**

- Boxing and wrestling standards, 371ER, 844ER, 891N, 1601R, 1645N

**Business Development, Office of**

- Entertainment Industries Development
- Motion picture tax credit programs, 553P, 1646N
- Sound recording, 1347R
- Entertainment workforce, 1988ER, 2236N
- Mentor-Protégé Program, 602R

## **ECONOMIC DEVELOPMENT (continued)**

Public Hearing: Entertainment Industry Tax Credit Programs—Motion Picture Production/Infrastructure Tax Credit Programs, 2504P

### **Economic Development Corporation**

Entertainment workforce, 1988ER

### **Secretary, Office of**

Matching grants, 1991ER, 2237N

Regional awards, 1991ER, 2237N

## **EDUCATION**

### **Elementary and Secondary Education, Board of**

BESE Part I Code of Conduct, 409R

Bulletin 111—The Louisiana School, District, and State Accountability System 104N, 427R, 430R, 867R, 1051N, 2031R, 2552R, 2693N, 2696N

Bulletin 118—Statewide Assessment, Standards and Practice, 65R, 431R, 481N, 1351R, 1680N, 2238N, 2241N, 2247N, 2454N, 2552R

Bulletin 120—Adult Education Data Quality and Procedures, 604R

Bulletin 121—Students Teaching and Reaching (STAR) Content Standards Curriculum Framework, 483N, 1353R

Bulletin 126—Charter Schools, 448N, 1357R

Bulletin 127—LEAP Alternate Assessment, 1457N, 2339R

Bulletin 128—Entrepreneurship Content Standards Curriculum Framework, 469N, 1378R

Bulletin 741—Louisiana Handbook for School Administrators, 607R, 1685N, 2557R, 2697N

Advanced placement, 1052N

Agricultural education, 1503N, 2386R

Carnegie credit, 1052N, 2031R

General career and technical education, 477N, 1386R

Graduation requirements, 712N, 1607R

Military service credit, 1052N

PreGED skills option, 1054N, 2032R

Bulletin 741—Nonpublic—Louisiana Handbook for Nonpublic School Administrators, 229R, 609R, 1122N, 2099R

Carnegie credit, 2455N

Bulletin 746—Louisiana Standards for State

Certification of School Personnel, 1687N, 2559R

Algebra I, 478N, 1386R

Committees, standing/executive, 2256N

Cooperative education, 106N, 869R

Educational technology, 1055N, 2033R

Foreign language special certificate PK-8, 233R, 2699N

General/special education, 1056N, 2034R

Highly qualified policy for teachers, 2700N

Junior ROTC, 715R, 1610R

Math for professionals certificate, 2251N

Practitioner Teacher Program, 479N, 2253N

Professional level certificates, 233R, 716N, 1387R, 1610R, 2254N

ROTC instructor, 432N

PRAXIS I Scores, 2701N

Private provider, State as, 2255N

Special education certification, 2252N

Turnabout specialist endorsement, 2703N

Bulletin 904—Guidelines for Submission of a Charter School Proposal, 480N, 1387R

Bulletin 1191—School Transportation Handbook, 2704N

Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation, 1504N, 2387R

Bulletin 1213—Minimum Standards for School Buses, 2705N

Bulletin 1943—Policies and Procedures for Louisiana Teacher Assistance and Assessment, 1689N

Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities, 1505N, 2388R

Bulletin 1566—Pupil Progression Policies and Procedures, 1507N, 2389R

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act, 1059N, 2036R, 2329N, 2527ER

Bulletin 1794—State Textbook Adoption Policy and Procedure Manual, 64R, 2706N

Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook, 610R, 1387R

### **Regents, Board of**

License applications, 2258N

License fees, 2258N

Registration, 2258N

### **Student Financial Assistance Commission**

#### **Student Financial Assistance, Office of**

Bylaws of the advisory committee, 610R

Health Care Educator Loan Forgiveness Program, 1849ER, 2259N

Scholarship Grants Programs, 219ER, 487N, 574ER, 897N, 1388R, 1317R, 1853ER, 1884R, 2263N

Financial peril prevention, 234R, 2528ER

### **Tuition Trust Authority**

#### **Office of Student Financial Assistance**

START Saving Program, 576ER, 899N, 1885R, 1995ER, 2456N, 2528ER

## **ENVIRONMENTAL QUALITY**

### **Management and Finance, Office of**

#### **Information Services Division**

Expanded web access to Public Records, 2314P

Water quality management plan updates, 2314P

#### **Secretary, Office of the**

Ambient air standards

Particulate matter, 433R

Toxic air pollutant, 1573P

Expedited penalty agreement, 377ER, 717N, 1310R

Motor fuels UST trust fund, 864R

#### **Legal Affairs Division**

2007 State Implementation Plan, 1969P

Asbestos and Lead Fees, 1933N, 2560R

Air Permits, 1653N, 2713N

Byproduct material medical use, 726N, 981R

Biosolids, 1028R

Centralized waste treatment facilities, 1258P, 1573P

Clean air interstate, 490N, 978R, 1288P

Control technology guidelines, 1764P, 2707N

DMR submittal, 1126N, 1886R

Electronic document/signatures, 904, 1611R

## **ENVIRONMENTAL QUALITY (continued)**

### **Emissions**

Annual inventory data submittals, 559P  
Evidentiary hearings on hazardous waste permit applications, 68R  
Incorporation by reference-2007, 493N, 865R, 901N, 980R, 1390R  
Permit applications, 107N  
RCRA burden reduction, 736N, 991R  
RCRA XVI, 279N, 614R, 753N, 1008R  
RCRA XVIII authorization package, 1936N, 2395R  
Regulation revisions, 69R  
Environmental quality, 1127N, 1887R  
Expedited penalty agreement, 1393R, 2276N  
Hazardous waste code, 1935N, 2391R  
IAEA transportation safety standards, 1657N, 2102R, 2392R  
Licenses, 779N, 1027R  
Lyondell delisting, 905N, 1612R  
Mercury risk reduction, 1670N  
National source tracking system reporting system, 243R  
Oxygen, Dissolved, criteria, 2272N  
Performance testing, 1143N, 1903R  
Radioactive material training, 1678N, 2121R  
Regulatory permits, 772N  
Sewage sludge, 1028R  
Solid waste exemptions, 612R  
Stage II vapor recovery, 1677N, 2397R  
UST systems, 1146N, 2115R  
Waste treatment facilities  
Comment period, 1971P  
Extension, 2510P

### **EXECUTIVE ORDERS**

KBB 07-33 Bond Allocation—Industrial Development Board of the Parish of Jefferson Davis, LA, Inc., 1EO  
KBB 07-34 2007 Carry-Forward Bond Allocation—Louisiana Housing Finance Agency, 2EO  
KBB 07-35 2007 Carry-Forward Bond Allocation—Louisiana Public Facilities Authority, 2EO  
KBB 07-36 2007 Carry-Forward Bond Allocation—Louisiana Housing Finance Agency, 3EO  
KBB 07-37 2007 Carry-Forward Bond Allocation—Calcasieu Parish Public Trust Authority, 3EO  
BJ 08-01 Executive Branch—Ethical Standards, 213EO  
BJ 08-02 Executive Department—Transparency, 213EO  
BJ 08-03 Executive Department—Limited Hiring Freeze, 214EO  
BJ 08-04 Louisiana Recovery Authority, 215EO  
BJ 08-05 Reassignment of Recreational Trails Program, 216EO  
BJ 08-06 Reassignment of Troops to Teachers Program, 216EO  
BJ 08-07 Activity and Permit Consistency with Louisiana's Comprehensive Master Plan for a Sustainable Coast, 216EO  
BJ 08-08 Executive Branch—Green Government, 217EO

BJ 08-09 Bond Allocation to Louisiana Housing Finance Agency—Amend Executive Order No. KBB 07-34 Concerning Carry-Forward, 367EO  
BJ 08-10 Authorization for Chair of the State Mineral Board to Sign Certain Documents on Governor's Behalf, 367EO  
BJ 08-11 Additional 2007 Carry-Forward Bond Allocation Louisiana Housing Finance Agency, 368EO  
BJ 08-12 Department of Health and Hospitals—Assistance and Support to Metropolitan Human Services District, 369EO  
BJ 08-13 Notice of Policy and Purpose of the Office of Inspector General, 567 EO  
BJ 08-14 Capital Outlay Reform, 567 EO  
BJ 08-15 Gulf Opportunity Zone Bond Allocation Procedures Rescinding Executive order No. KBB 2006-09 and No. KBB 2006-27, 568 EO  
BJ 08-16 Advance Refunding Bond Allocation Procedures, 841EO  
BJ 08-17 Bond Allocation—Industrial Development Board of the City of New Orleans, Louisiana, Inc, 842EO  
BJ 08-18 Gulf Opportunity Zone Advance Refunding Bond Allocation—Port of New Orleans, 960EO  
BJ 08-19 Procedures in Cases before Military Courts in the State of Louisiana, 960EO  
BJ 08-21 Statewide Abstinence Education, 1297EO  
BJ 08-22 Bond Allocation—Louisiana Community Development Authority, 1298EO  
BJ 08-23 Bond Allocation—Rapides Finance Authority, 1298EO  
BJ 08-24 Multi-Disciplinary Committee—Community Mental Health Centers, 1581EO  
BJ 08-25 Gulf Opportunity Zone Advance Refunding Bond Allocation—State of Louisiana, 1581EO  
BJ 08-26 Governor's Military Advisory Board, 1582EO  
BJ 08-27 Flags at Half Staff, 1583EO  
BJ 08-28 Gulf Opportunity Zone Advance Refunding Bond Allocation—City of Plaquemine, 1584EO  
BJ 08-29 Cooperative Endeavor Agreements, 1584EO  
BJ 08-30 Accountability for Line Item Appropriations, 1585EO  
BJ 08-31 Call of Meetings of the State Mineral Board, 1779EO  
BJ 08-32 Emergency Operations Plan, 1779EO  
BJ 08-33 Office of Abstinence Education—Louisiana Abstinence Education Project—Governor's Program on Abstinence, 1784EO  
BJ 08-34 Office of Community Programs, 1785EO  
BJ 08-35 Hours of Service of Drivers of Gas and/or Electric Utility Service Vehicles, 1786EO  
BJ 08-36 Office of the First Lady, 1787EO  
BJ 08-37 Inmate Labor for Construction of a Non-Denominational Chapel at the Louisiana Correctional Institute for Women in St. Gabriel, 1787EO  
BJ 08-38 Inmate Labor for Construction of Non-Denominational Chapels at B.B. "Sixty" Rayburn and Forcht-Wade Correctional Centers, 1788EO

### EXECUTIVE ORDERS (continued)

- BJ 08-39 Inmate Labor for Construction of Animal Shelter Dixon Correctional Institute, 1788EO
- BJ 08-40 Continuation of the National Incident Management System (NIMS) Designation, 1788EO
- BJ 08-41 Solutions to Poverty, 1789 EO
- BJ 08-42 Maritime Advisory Task Force, 1790EO
- BJ 08-43 Interstate 49 South Feasibility and Funding Task Force, 1791EO
- BJ 08-44 Inmate Labor for Construction of a Non-Denominational Chapel at the Louisiana Correctional Institute for Women in St. Gabriel, 1792EO
- BJ 08-45 Establishment of Unified Command Group and Subcommittees, 1793EO
- BJ 08-46 Drug Control and Violent Crime Policy Board, 1794EO
- BJ 08-47 Bond Allocation Procedures, 1795EO
- BJ 08-48 Louisiana Wild Caught Shrimp Industry Trade Action Advisory Council, 1798EO
- BJ 08-49 Louisiana Abraham Lincoln Bicentennial Commission, 1799EO
- BJ 08-50 Louisiana Commission on Marriage and Family, 1800EO
- BJ 08-51 Louisiana Offshore Terminal Authority to Administer the Federal Deepwater Port Act for Louisiana, 1801EO
- BJ 08-52 E-Rate Oversight Committee, 1802EO
- BJ 08-53 Louisiana Federal Property Assistance Agency, 1803EO
- BJ 08-54 HUD Community Planning and Development Formula Grant Program, 1804EO
- BJ 08-55 Commandeering of Property Use—Lake Cataouatche Levee Enlargement, Parish of Jefferson, 1805EO
- BJ 08-56 Commandeering Property for Repair of the 17th Street Canal, 1806EO
- BJ 08-57 Commandeering of Property Use East of Harvey Floodwall—Phase 2B, 1806EO
- BJ 08-58 Commandeering of Property Use East of Harvey Canal Floodwall—Contract 1, 1807EO
- BJ 08-59 Commandeering of Property Use—East of Harvey Canal Floodwall—Contract 2A, 1808EO
- BJ 08-60 Commandeering of Property Use East of Harvey Canal Floodwall Contract 3A, 1808EO
- BJ 08-61 Inmate Labor for Construction of Animal Shelter B.B. "Sixty" Rayburn Correctional Center, 1809EO
- BJ 08-62 Louisiana Historical Records Advisory Board, 1809EO
- BJ 08-63 Governor's Advisory Council on Safe and Drug-Free Schools and Communities, 1811EO
- BJ 08-64 Rules and Policies on Leave for Unclassified Service, 1812EO
- BJ 08-65 Community Development Block Grant Funds, 1818EO
- BJ 08-66 The Hudson Initiative, 1818EO
- BJ 08-67 Small Purchase Procedures, 1818EO
- BJ 08-68 The Board of Parole, 1821EO
- BJ 08-69 State Employee Drug Testing Policy, 1822EO
- BJ 08-70 Governor's Task Force on DWI—Vehicular Homicide, 1823EO
- BJ 08-71 Louisiana Rehabilitation Council, 1824EO
- BJ 08-72 Louisiana Emergency Response Commission, 1826EO
- BJ 08-73 Louisiana Statewide Independent Living Council, 1827EO
- BJ 08-74 Governor's Advisory Council on Disability Affairs, 1828EO
- BJ 08-75 Louisiana D.A.R.E. Advisory Board, 1829EO
- BJ 08-76 Executive Department—Grants Portal, 1830EO
- BJ 08-77 Emergency Procedures for Conducting State Business, 1831EO
- BJ 08-78 DOTD Guidelines for Vehicles, Trucks and Loads, 1832EO
- BJ 08-79 Hours of Service of Drivers of Telecommunications, Water and/or Wastewater Utility Service Vehicles, 1833EO
- BJ 08-80 Temporary Housing of Displaced Youth, 1833EO
- BJ 08-81 Licensed Bed Capacity for Nursing Homes, 1834EO
- BJ 08-82 Use of State Vehicles to Transport Non-State Employees during Emergency, 1835EO
- BJ 08-83 Public Health Emergency, 1835EO
- BJ 08-84 Emergency Closure of Schools, 1836EO
- BJ 08-85 Postponement of Primary and Proposition Elections for Certain Parishes, 1837EO
- BJ 08-86 Suspension of Requirements for Special Officer Commissions, 1837EO
- BJ 08-87 Emergency Suspension of Certain Workers' Compensation Laws, 1838EO
- BJ 08-88 Emergency Authority for Call of Meetings of the State Mineral Board, 1839EO
- BJ 08-89 Rescheduling of the 2008 Primary, General and Proposition Elections Postponed by BJ 08-85, 1839EO
- BJ 08-90 Emergency Occupation of Hotels and Motels by Utility Restoration Personnel, 1840EO
- BJ 08-91 Emergency Suspension of Certain Unemployment Insurance Laws, 1841EO
- BJ 08-92 Emergency Suspension of Deadlines in Legal, Administrative, and Regulatory Proceedings, 1842EO
- BJ 08-93 Limited Transfer of Authority to Commissioner of Insurance for Emergency Rules for Hurricane Gustav, 1843EO
- BJ 08-94 Emergency Operations Plan—Amendment to Executive Order No. BJ 2008-32, 1844EO
- BJ 08-95 Hurricane Gustav Oyster Lease Damage Inspection, 1845EO
- BJ 08-96 Hurricanes Gustav and Ike—Escort Requirements for Oversize Vehicles, Trucks and Loads, 1981EO
- BJ 08-97 Hurricanes Gustav and Ike—Extension of Orders No. BJ 08-77, No. 08-78, No. 08-79, No. BJ 08-81, No. BJ 08-82, No. BJ 08-83, No. 08-86, and No. BJ 08-90, 1981EO
- BJ 08-98 Hurricanes Gustav and Ike—Louisiana Recovery Authority, 1982EO
- BJ 08-99 Hurricane Ike—Oyster Lease Inspection, 1982EO
- BJ 08-100 Hurricane Ike—Delay and Rescheduling of Elections in Cameron and Terrebonne Parishes, 1983EO

## **EXECUTIVE ORDERS (continued)**

- BJ 08-101 Hurricane Ike—Delay and Rescheduling of Elections in Cameron and Terrebonne Parishes—Amended Executive Order No. BJ 08-100, 1984EO
- BJ 08-102 Emergency Authority for Transportation and Handling of Human Remains Disinterred as a Result of Hurricanes Gustav or Ike, 1984EO
- BJ 08-103 Louisiana Abraham Lincoln Bicentennial Commission—Amend Executive Order BJ 08-49, 1985EO
- BJ 08-104 DOTD Disaster Relief Guidelines for Vehicles, Trucks and Loads, 2326EO
- BJ 08-105 Commandeering of Property Use Inter Harbor Navigation Canal Project, 2327EO
- BJ 08-106 DOTD Disaster Relief Guidelines for Vehicles, Trucks and Loads Rescinds and Supersedes Order No. BJ 08-104, 2521EO
- BJ 08-107 Participation in the United States Army's Partnership for Youth Success Program, 2522EO
- BJ 08-108 Executive Department—Limited Hiring Freeze, 2522EO
- BJ 08-109 Emergency Dredging of and Debris Removal for Bayou Lafourche, 2524EO
- BJ 08-110 Bond Allocation—LPFA Air Products and Chemicals-Methane Reformer Project in Garyville, 2525EO
- BJ 08-111 Bond Allocation—Bond Allocation—LPFA Air Products and Chemical-Steam Methane Reformer Baton Rouge Project, 2526EO

## **GOVERNOR**

### **Administration, Division of**

#### **Facility Planning, Office of**

- Design-build method, 590ER, 781N, 2121R
- Expired license reinstatement, 2563R

#### **Group Benefits, Office of**

- EPO and PPO plan of benefits
- Ambulance services, 108N, 646R
  - Documentation of dependents, 2283N
  - Durable medical equipment, 109N, 646R
  - Eligible expenses, 1941N, 2562R
  - Genetic testing, 110N, 647R
  - Medicare, 111N, 648R
- PPO plan of benefits
- Eligible expenses, 1941N
  - Physician assistants and registered nurse practitioners, 208P, 649R

#### **Information Technology, Office of**

- OIT bulletins, 1769P, 2315P, 2774P

#### **Racing Commission**

- Equine veterinary practices, 5ER, 1158N
- Pick N, 12ER, 869R
- Shoes, 2286N
- Therapeutic measures, 2285N
- Timing of entering next claiming race, 496N

#### **State Travel**

- General Travel PPM 49, 1299PPM

#### **Architectural Examiners, Board of**

- Examination, 908N
- Practical experience, 908N
- Vacancies, 1861ER

#### **Capital Area Ground Water Conservation Commission**

- Pumpage fees, 435R

#### **Certified Public Accountants, Board of**

- Continuing professional education, 1939N, 2561R
- CPA certificate renewal, 1690N, 2397R
- Peer review, 2457N

#### **Commission on Law Enforcement and Administration of Criminal Justice**

- Peace Officer Training, 1927R

#### **Crime Victims Reparation Board**

- Reparations, eligibility, 2282N

#### **Elderly Affairs, Office of**

- State plan on aging, 910N

#### **Financial Institutions, Office of**

- Banking Development Districts Program, 221ER
- Compensatory benefit plan, 1165N, 2125R
- Judicial Interest Rate Determination for 2009, 2774P
- Louisiana Trust Company, 384ER, 871R
- Residential Mortgage Lending Act,
- Expired License Reinstatement Procedure, 1932N
  - Third-party solicitor exemptions, 1166N, 2125R

#### **Home Inspectors, Board of**

- Training, 780N, 1157N, 1926R, 2279N

#### **Interior Design, Board of Examiners of**

- Interior Designers, 1152N, 1922R

#### **Law Enforcement and Administration of Criminal Justice, Commission on**

- Peace officer training, 909N, 2459N

#### **Louisiana Recovery Authority**

- Board members, 1692N, 2399R

#### **Motor Vehicle Commission**

- Advertising, 74R

#### **Oil Spill Coordinator's Office**

- Duck Lake crude oil discharge draft settlement agreement, 2774P
- East Lake Palourde crude oil discharge draft settlement agreement, 2775P

#### **Patient's Compensation Fund**

- Qualified health care provider services, 1996ER

#### **Real Estate Commission**

- Prohibitions, 911N, 1614R

#### **Recreational and Used Motor Vehicle Commission**

- Recreational products trade show, 435R

#### **Shorthand Reporters, Board of Examiners**

- Fees, 434R
- Examinations, 2279N

#### **Tax Appeals, Board of**

- Office move, 560P

## **GOVERNOR'S REPORTS**

- Emergency Rule—Pain management clinics licensing standards, 204GR, 204GR

## **HEALTH AND HOSPITALS**

#### **Chiropractic Examiners, Board of**

- Professional conduct/due process, 2287N

#### **Dentistry, Board of**

- Examination, 782N
- Requirements, licenses, permits, 1942N, 2563R

## **HEALTH AND HOSPITALS (continued)**

**Embalmers and Funeral Directors, Board of**  
Licensure, Signs, Injunctions and Hearing Continuance, 2399R

Mandatory Disclosure, Charge and Closure of Establishment, Prepaid Services, 2400R

### **Emergency Response Network Board**

Emergency Response Network, 118N, 386ER, 649R

### **Licensed Professional Counselors Board of Examiners**

General provisions and code of conduct, 499N, 833P

Licensure, 1863ER, 2463N

### **Medical Examiners, Board of**

Application, 1696N, 2401R

Adjudication, 1625R, 1905R

Athletic trainers, 113N

Certification/practice, 786N, 1615R, 1697N

Licensure, 1697N, 2402R, 2717N

Medical professionals/practice, 438R

Medicine dispensation, 1626R, 1905R

Physician assistants licensing, certification, and practice, 243R

Psychologists, 2714N

### **Nursing, Board of**

Continuing education, 440R

Licensure, denial or delay, 1948N

### **Optometry Examiners, Board of**

Optometry regulations, 115N, 872R

### **Pharmacy, Board of**

Controlled dangerous substances, 1167N, 2126R

Interns, 798N, 1408R

Pharmacies, 797N, 1408R

### **Physical Therapy Examiners, Board of**

Licensure, 912N, 1201N, 1906R

Certification, 912N, 1201N, 1906R

Practice, 912N, 1201N, 1906R

### **Practical Nurse Examiners, Board of**

Adjudication, 1208N, 1912R

Approved fees, 316N, 496N, 874R

Records protection, 1208N, 1912R

### **Public Health, Office of**

Diseases, Genetic

Newborn heel stick screening, 442R

Neonatal screening, 13ER

Yellow fever prevention and control, 444R

Freshwater food products, 1221N, 2174R

Lead poisoning, 1511N, 2173R

Marine food products, 1221N, 2174R

Partner therapy notification, 2464N

Preventative Health and Health Services Block Grant, 1289P, 2315P

Reporting requirements, 1510N, 2172R, 2581R

Safe drinking water program, 2738N

### **Environmental Health, Center for**

2007 annual beach report, 834P

General provisions, 133N, 651

Marine/freshwater animal food products, 444R

## **Maternal and Child Health Section**

Public notice, 953N

### **Psychologists, Board of Examiners**

Criminal records, 783N, 1405R

### **Secretary, Office of the**

#### **Aging and Adult Services, Office of**

Home/Community Based Services Waiver

Adult day health care, 39ER, 120N, 1209N, 1324ER, 2161R, 2565R

Direct support professionals wage enhancement, 251R

Displaced recipients, termination of services, 920N, 1320ER

Medical Assistance Program, 389ER

Elderly and disabled adults waiver, 391ER, 517N, 1029R

Adult day health care services, 519N, 1031R

Direct support professionals wage enhancement, 251R

Personal care services, long term

Louisiana personal options program, 1951N, 2577R

Personal care workers wage enhancement, 253R

#### **Citizens with Developmental Disabilities, Office of**

Home/Community Based Services Waivers

Children's Choice

Direct support professionals wage enhancement, 250R

Displaced recipients, termination of services, 388ER, 920N, 1627R

New opportunities waiver

Direct support professionals wage enhancement, 252R, 2530ER

Nursing services rate increase, 2719N

Supports waiver

Support coordination services, 40ER, 171N, 662R

Targeted case management, 40ER, 172N, 663R

#### **Health Services Financing, Bureau of**

Adult residential care, 1541N

Providers, 1513N

Adult day health care

Minimum licensing standards, 151N, 1229N, 2177R, 2582R, 2622R

Disproportionate share hospital payments

Distinct part psychiatric unit expansions, 15ER, 394ER, 918N, 963ER, 1627R

Federally mandated statutory hospitals, 2000ER

Mental health emergency room extensions, 577ER, 918N

Non-rural community hospitals, 1999ER, 2000ER, 2402R

Early and Periodic Screening, Diagnosis and Treatment Program

Dental services reimbursement, 223ER, 521N, 1032R

EarlySteps Reimbursement Rate Increase, 1865ER, 2289N, 2531ER

School-based health centers, 1419R

Facility need review

Adult day health care, 2611R

Bed approval criteria, 2000ER

## HEALTH AND HOSPITALS (continued)

Federally qualified health centers  
Reimbursement methodology  
Adjunct services payment, 16ER, 522N, 846ER, 1033R

Home Health Services  
Extended nursing services, 144N, 224ER, 654R

Hospice payment rates, 441R

Hospital(s)  
Emergency preparedness, 2466N  
Electronic reporting requirements, 1866ER, 2532ER

Inpatient  
Disproportionate share hospital, 17ER, 145N  
Small rural hospital reimbursement, 2001ER

Non-Rural/Non State  
Children's specialty hospitals psychiatric units, 317N, 579ER, 875R  
Community/federally mandated hospitals, 845ER, 1321ER, 1322ER, 1698N  
Distinct part psychiatric unit expansions, 22ER, 579ER, 1224N, 1587ER, 1913R  
Hemophilia blood products, 847ER, 1553N, 1589ER, 2176R  
Reimbursement, 318N, 580ER, 876R, 1588ER  
Supplemental payments, 23ER, 319N, 877R

Outpatient  
Rehabilitation Services  
Reimbursement Methodology, 1921R  
State-owned hospitals, 1323ER, 1702N  
Reimbursement, 2008ER  
Small rural hospitals  
Outpatient services, 853  
Reimbursement, 848ER, 1699N, 2006ER

Medicaid eligibility  
Disability Medicaid Program, 321N, 395ER, 878R  
Family Opportunity Act Medicaid Program, 25ER, 849ER, 921N, 1628R, 1866ER, 2291N  
Pregnant women, termination of presumptive eligibility, 168N, 658R  
Presumptive eligibility for children, 26ER  
Spousal impoverishment, 29ER, 581ER, 800N, 1409R  
SSI related resources, 27ER, 582ER, 801N, 1410R  
Transfers of assets, 30ER, 584ER, 803N, 1411R

Medical Transportation Program  
Emergency aircraft transportation, 1867ER, 2292N, 2533ER  
Licensing standards, 2720N  
Emergency ambulance services, 322N, 586ER, 878R  
Licensing standards, 2720N  
Non-emergency ambulance services, 322N, 586ER, 878R

Mental Health Rehabilitation Program, 1225N, 1913R  
Moratorium on mental health rehabilitation providers, 168N, 396ER, 659R

Multi-systematic therapy, 850ER, 2002ER, 2467N

Nursing Facilities  
Evacuation and temporary sheltering costs, 224ER, 323N, 879R  
Fair rental value, property tax, insurance incentive payments, 523N, 1033R  
Minimum licensing standards, 1701N, 2403R, 2470N  
Emergency preparedness, 32ER, 396ER, 812N, 964ER, 1917R  
Resident personal fund accounts, 325N, 880R  
Standards of payment, level of care determination, 393ER, 525N, 1031R

Nurses Aides  
Medication attendant certification, 806N, 1413R  
Pain management clinics, 35ER, 80R, 816N, 854ER, 1418R

Pharmacy Benefits Management Program  
Antihemophilia drugs, 326N, 560P, 806R  
Dispensing fee, 87R

Pregnant Women Extended Services  
Dental services, 441R, 817N, 1419R

Professional Services Program  
Adult immunizations, 527N, 1035R  
Children's immunizations, 2293N, 2330ER  
Physician services, 1628R  
Adjunct services payment, 528N, 856ER, 1035R  
Reimbursement methodology, 587ER, 923N

Prosthetics/Orthotics  
Provider accreditation, 1955N, 2638R  
Reimbursement, 327N, 588ER, 881R

Rural health clinic, 856ER, 1036R, 1704N, 2009ER  
Adjunct service payment, 857ER

State Children's Health Insurance Program  
Prenatal care, 589ER, 659R, 1590ER, 2294N, 2331ER

Targeted case management, 858ER, 1555N  
Nurse Family Partnership Program, 226ER, 1036R  
Reimbursement, 1591ER, 1868ER, 2296N, 2534ER

Third party liability, 661R

**Primary Care and Rural Health, Bureau of**  
Rural hospitals, primary service areas, 89R  
Professional Services Program  
Adult immunizations, 36ER  
Physician services  
Adjunct services payment, 37ER  
Reimbursement methodology, 37ER

Rural health clinics reimbursement  
Adjunct services payment, 38ER, 529N  
School based health centers, 400ER, 818N

**Social Work Examiners, Board of**  
Social work, 246R, 310N, 1401R

**Speech and Language and Pathology, Board of Examiners**  
Board meeting dates, 361P  
Statewide human service framework, 136N  
Targeted case management  
Nurse Family Partnership Program, 530N

## HEALTH AND HOSPITALS (continued)

Third party liability

Provider billing and trauma recovery, 169N

Twelve months continuous eligibility, 253R

### Veterinary Medicine, Board of

2009 Board Meeting Dates, 2315P

Fall/Winter examination dates, 1574P

Spring/Summer examination dates, 2776P

Registration during a Declared Public Health

Emergency, Temporary, 1863ER

Student/Shelters and faculty veterinarian, 497N,  
1028R

Veterinary practice, 385ER, 962ER, 1998ER, 2461N,  
2529ER

### Wholesale Drug Distributors, Board of

License procedure, 874R

## INSURANCE

### Commissioner, Office of the

Emergency Rule 24—Suspension of Certain Statutes  
and Regulations, 1869ER, 2009ER

Emergency Rule 25—Suspension of Certain Statutes  
and Regulations, 1873ER, 2013ER

Named storm and hurricane deductibles, Regulation 93,  
2743N

Premium adjustments for compliance with building  
codes and damage mitigation/Reg 94, 90R

Public Fire Protection Grading Review Board

Regulation 95, 174N, 664R

Prescribed minimum statutory reserve liability,  
Regulation 96, 1556N, 2193R

Viatical settlements, 2297N

### Health, Office of

HIPPA assessment rate, 1289P

## LEGISLATION

### House of Representatives

#### House Committee on Health and Welfare

Proposed Rule—Licensed Professional Counselors

Board of Examiners, 1968CR

### Senate

#### Senate Committee on Commerce, Consumer

##### Protection and International Affairs

Emergency Rule—Equine veterinary practices health  
and medication, 360CR

#### Senate Committee on Health and Welfare

Proposed Rule—Licensed Professional Counselors

Board of Examiners, 1968CR

## LOUISIANA WORKFORCE COMMISSION

### Workers' Compensation Administration, Office of

State average weekly wage rate, 1770P

Weekly compensation benefits limits, 1770P

## NATURAL RESOURCES

### Atchafalaya Basin Program

Water basin management, 1770P

### Conservation, Office of

Application to drill, 2018ER, 2639R

Diverter systems, 2019ER, 2640R

Fees, 1705N, 2404R

Ground water management, 2471N

Orphaned oilfield sites, 208P, 560P, 834P, 953N, 1289P,  
1574P, 1770P, 2315P, 2510P, 2777P

Statewide order 29-B

Commercial exploration and product waste facilities,  
532N, 1420R

Waste type 04 disposal requirements, 535N

### Mineral Resources, Office of

Application to drill, 1327ER, 1558N

Diverter system, 1328ER, 1558N

Mineral resources/wind energy leasing/Bohemia

Spillways, 254R

### Secretary, Office of the

Fisherman's Gear Compensation Fund

Loran coordinates, 209P, 560P, 834P, 954N, 1290P,  
1574P, 1771P, 2316P, 2511P, 2777P

Land conservation organizations certification, 177N,  
953N

## PUBLIC SAFETY AND CORRECTIONS

### Corrections Services

Disciplinary rules, 1331ER, 1561N, 2194R

Incentive Pay, 1046N, 1927R

Employee searches, 1562N, 2205R

Good time forfeiture, 1561N, 2204R

Marriage requests, 1709N, 2406R

Prison enterprises, 1957N, 2642R

Records, active and inactive, 2300N

Searches of visitors, 2746N

Sex offender

Assessment panels, 858ER, 926N, 1631R

Electronic monitoring, 924N, 1630R

Emergency plan, 820N, 1423R

Supervised release, 822N, 1424R, 2476N

Telephone use/policy, 2302N

### Gaming Control Board

Gaming, 1710N, 2645R

Application and license, 329N, 1037R, 1960N

### Management and Finance, Office of

Louisiana State Uniform Construction Code, 93R

International residential code, 330N

### Motor Vehicles, Office of

License Plates, 1961N

### Private Security Examiners, Board of

Registration, 594ER, 666R

Training, 594ER, 666R

Uniforms, 594ER, 666R

**PUBLIC SAFETY AND CORRECTIONS (continued)**

**State Police, Office of**

Education, 2306N  
Explosive code, 531N, 1037R, 1962N, 2674R, 2749N  
Handgun permits, 2304N  
Hazardous Material Information Development  
Preparedness and Response Act, 331N, 882R  
Motor carrier safety and hazardous materials, 332N, 882R  
Training, 2306N  
User fees, 94R

**State Uniform Construction Code Council**

Uniform Construction Code, 41ER, 42ER, 883R, 968ER, 2535ER  
Disciplinary proceedings, 595ER, 928N, 1632R  
Industrial facilities, 1740N, 2407R  
International mechanical code, 1562N, 2205R  
Recreational structure, 1740N, 2407R  
Wind mitigation surveyor, 2748N

**REVENUE**

**Alcohol and Tobacco Control, Office of**

Caterer's permit, 929N, 1633R  
Fairs, festivals, special events, 930N, 1634R  
Prohibitions, 969ER, 1741N

**Policy Services Division**

Drug Testing, 667R  
Electronic filing, 824N, 970ER, 1425R  
Income and franchise tax, 333N, 932N  
Income tax schedule requirements for nonresident athletes, 446R  
Income tax withholding tables, 2480N  
Individual income tax filing extensions, 2536ER, 2750N  
Motor vehicle lessors, 1251N, 1929R  
Natural gas tax rate, 835P  
Payment of taxes by credit/debit cards, 43ER, 185N, 671R  
Property used in interstate commerce, 2751N  
Tax holiday on hurricane items purchase, 596ER, 825N, 1426R  
Tax matters person, 2332ER, 2478N  
Wind or solar energy system tax credits, 404ER, 537N, 971ER, 1248N, 2205R

**Tax Commission**

Ad valorem taxation, 45ER, 673R, 2536ER, 2754N  
Timber Stumpage Values, 2774P

**SOCIAL SERVICES**

**Community Services, Office of**

Block grant intended use report, 561P  
Child and family services plan, 954N  
Daycare services, 2334ER  
Emergency Shelter Grants Program 2008  
Anticipated funds availability, 361P  
Refugee Resettlement Program, 186N, 884R

**Family Support, Office of**

2008 Act requirements, 2022ER  
Child Care Assistance Program (CCAP)  
Child care provider, 402ER  
Louisiana pathways, 95R

Provider disqualifications, 1563N, 2208R  
Provider registration/certification, 187N, 691  
Louisiana Pathways, 1743N  
Quality Start, 1743N, 2408R  
Sliding fee scale, 187N

**FITAP**

Repayments, Recovery of 1966N, 2677R  
Food Stamp Program, 54ER, 335N, 597ER, 2678R  
Adults without dependents, 884R  
Resource exclusions, 1750N  
Work requirements, 884R

**KCSP**

Repayments, Recovery of 1966  
OCS child welfare, 1253N, 1930R  
Passport denial, 2495N  
Support enforcement, 1252N, 1929R  
State plan, 2495N  
TANF initiatives, 55ER  
Caseload reduction report, 363P  
Domestic violence services, 974ER, 1752N, 1878ER, 2415R  
GED Testing Program, 60ER, 276R  
Language clarifications, 189N, 693  
Nurse Family Partnership Program, 61ER, 277R  
Teen Pregnancy Prevention Program, 974ER, 2415R

**Rehabilitation Services, Office of**

Individual's participation in the cost of vocational rehabilitation services, 540N, 1038R  
Policy manual, 403ER

**Secretary, Office of**

**Licensing, Bureau of**

Child residential licensing, 934N

**STATE DEPARTMENT**

**Secretary of State, Office of the**

Address Confidentiality Program, 336N, 542N, 1636R  
Elections Division  
Registrars, 704R  
Political party recognition, 702R  
Poll workers, 827N, 1635R  
Registrars, 828N, 1635R  
Voting System drayage and storage, 698R

**TRANSPORTATION AND DEVELOPMENT**

Signing, control, 2307N

**Professional Engineering and Land Surveying Board**

Seals, 1753N, 2415R

**Office of Public Works**

Port construction, 1039R  
Procedural manual, 1047R

**TREASURY**

**Housing Finance Agency**

Grants for Grads Program, 2023ER

**Louisiana State Employees' Retirement System**

Active member vacancies, 2497N  
Elections, 446R  
ORP-election to participate, 97R  
Rollover of refunds, 97R

**TREASURY (continued)**

Spousal consent not required, 545N, 1048R  
Voluntary deduction, 951N, 1639R

**Teachers' Retirement System**

Monthly contribution reports and submission requirements, 545N, 1048R

**WILDLIFE AND FISHERIES**

**Wildlife and Fisheries Commission**

Alligator, 2024ER, 2755N  
Aquatic organisms, domesticated 1754N, 2679R  
Charter landing, 2308N  
Coast guard motorboats, 2499N  
Crab trap removal, 97ER  
Deer Management Assistance Program, 547N, 1427R  
Early migratory bird, 1593ER  
Emergency cut-off switches, 195N, 363P, 1049R, 1428R  
Flotation devices, 196N, 885R  
Fur trapping season, 829N, 1639R  
General and wildlife management area hunting, 339N, 1429R, 1567N  
Gill net and grass carp prohibitions, 197N, 886R  
Grouper, 861ER, 2334ER  
Iatt Lake fishing, 974ER, 1255N  
King mackerel, 62ER

Landowner Antlerless Deer Tag Program, 549N, 1443R  
Marine event permits, 198N, 886R  
Natural areas, 2497N  
Nuisance quadrupeds, 2767N  
Oyster cargo vessels, 975ER, 1755N, 2025ER, 2679R  
Oyster season, 227ER, 862ER, 1592ER, 2026ER  
    Lake Merchant season closure, 1880ER  
    Sister Lake, 2027ER  
Oyster seed ground vessel permit, 1879ER, 1972P, 2680R  
Physically challenged hunter permit, 353N, 1444R  
Red snapper, 976ER  
Reef fish, 62ER, 227ER, 550N, 1344ER, 1594ER, 1758N, 2209R, 2546ER, 2682R  
Resident game hunting, 357N, 1447R  
Sawfishes, 1594ER, 1760N, 1880ER, 2027ER, 2316P  
Shark, large coastal, 63ER, 1344ER, 1880ER  
Sharks, 1594ER, 17560N, 2027ER, 2316P  
Shrimp, 598ER, 861ER, 1342ER, 1342ER, 1343ER, 1343ER, 1592ER, 2545ER, 2546ER  
Snapper, 406ER  
Tilefishes, 861ER, 2334ER  
Turkey, 1565N  
Vessel monitoring system, 199N, 887R  
Youth fishing, 706R  
Waterfowl, 1878ER  
White Lake WCA Conservation Management Plan, 2768N